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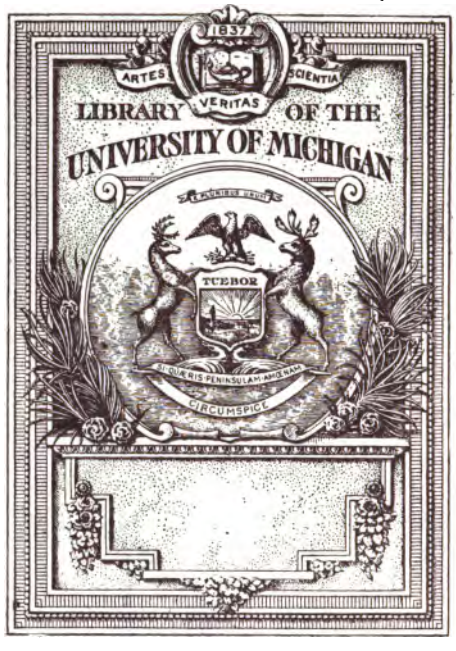
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THIRTY-SEVEN YEARS OF HOLLAND-AMERICAN RELATIONS 1803 TO 1840

BY
PETER HOEKSTRA

A THESIS
PRESENTED TO THE FACULTY OF THE GRADUATE SCHOOL
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF DOCTOR OF PHILOSOPHY

EERDMANS-SEVENSMA CO.
Grand Rapids, Michigan - Paterson, New Jersey
1916

THE UNIVERSITY OF PENNSYLVANIA

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DEDICATION

To Professor B. K. Kuiper of Calvin College, who first inspired me with a love for the historical sciences, and to that most modest of historical scholars, Professor E. W. Dow of the University of Michigan, to whom I owe a valuable training in historical method, these pages are affectionately inscribed. May they continue to inspire large numbers of their students to worship at the shrine of history.

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PREFACE.

The task of collecting material for this monograph was begun in the summer of 1913, partly at the suggestion of Dr. W. E. Lingelbach of the University of Pennsylvania. My original plan was to treat the subject of spoliation claims against Holland, but the material proved to be entirely inadequate. The reasons for enlarging the scope of the work, so as to make it cover the years 1803 to 1840, are set forth in the Introduction.

A part of the manuscript was read by Dr. Lingelbach and by Dr. Frank E. Melvin, then a Harrison research Fellow in history at the University of Pennsylvania, now assistant professor in history in the Kansas State University. I owe much to their helpful criticism and encouragement, as well as to their active assistance. Dr. Lingelbach kindly consented to collect for me the documents from the British Foreign Office which have been utilized in Chapter V., while Dr. Melvin generously loaned me material from British and French archives, to which circumstances prevented me from procuring access. To the members of Dr. Lingelbach's Seminary on the Continental System I am indebted for much useful information, which enabled me to give a broader setting to Chapters II. and III. than would otherwise have been possible. A word of thanks is also due to Dr. R. Fruin, chief archivist of the Rijks-Archief at The Hague, and to his able staff of assistants.

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CHAPTER I.

INTRODUCTION.

During the past three centuries several lines of connection, more or less important according to one's point of view, have existed between The Netherlands and the American continent. The earliest and best known of these Holland-American relations dates from the year 1609, when the discoveries of an English sea captain, Henry Hudson, in the employ of a Dutch commercial company, established for the Republic of Holland a claim to the region which came to be known as New Netherland, lying between the Delaware and Connecticut rivers. Discovery was followed by occupation; trading stations were founded to develop the new line of trade with the Indians, and colonists were sent in to found settlements along the Hudson or to find employment on the semi-feudal estates of the patroons. In 1621 the Dutch West India Company was organized, with supreme power of governing the newly acquired region in the name of the Estates General.

Dutch rule in America, however, abruptly came to an end in 1664, when New Netherland was surrendered to the English. For more than a century after this date all direct commercial intercourse between Holland and her former colony was effectually prevented by the operation of the British Navigation Acts. During this period, also, emigration from Holland practically ceased. However, the maintenance of ecclesiastical relations still constituted a somewhat feeble bond of union between the Hollanders in the new world and those in the old. In fact, the establishment of the Reformed Church may be considered the main permanent result of this period, for this religious organization exists and thrives after the lapse of three centuries. Yet, isolated as they were in other respects, the few thousand Hollanders in New York and New Jersey influenced the life of these colonies for several generations. With the conservatism which

has ever characterized the race, they retained their own customs and their language was still spoken at the close of the American Revolution.[1]

Of more importance to our national history than the ineffectual attempts at colonization was the series of relations—commercial, financial and political—established during the Revolutionary period. Relations with Holland were reopened through the operation of the same factor which had originally brought the Dutch in contact with the American continent. Hope of gain, and the desire to injure their trade rivals, the English, induced the Dutch to carry on an illicit trade with the American colonies during the war, and this in turn paved the way for the commercial treaty of 1782, under which a flourishing trade soon sprang up. Holland also added to our prestige abroad by her recognition of American independence, and she followed up this step by sending an accredited minister as early as 1783—an honor which the United States did not return until 1790. The loans which the Dutch offered to the national government at the time of our greatest financial distress were another mark of esteem and confidence, which cemented the bonds of friendship between the two countries.[2] And for more than a century our relations with Holland have in the main been characterized by the same friendly spirit which is noticeable in the early years of our national existence.

Travel and immigration offered yet a fourth line of connection. Among the most distinguished of the early Dutch travelers was the later statesman Gijsbert Karel Van Hogendorp, whose eager curiosity to obtain a first-hand knowledge of our institutions induced him to accompany the squadron which, in 1783, conveyed the Dutch minister Van Berckel to the United States. His name deserves mention not only for the interesting comments on men and events which he has

---

1) Francis Adriaan Van der Kemp, who reached New York from Holland in 1788, notes that Mrs. Tappan, Mrs. Clinton and Mrs. Hamilton conversed with Mrs. Van der Kemp in Dutch. "This was unexpected and enhanced yet farther the high value of their numerous favors." *Autobiography,* 91-2, Ms. copy in Pa. Hist. Society.

2) In so far as these relations fall within the Revolutionary period they have recently been discussed in Frederick Edler's study, *The Dutch Republic and the American Revolution,* in Johns Hopkins Univ. Studies, Series 29, No. 20.

left us,[1] but also for the part which he played, in 1814, in re-opening diplomatic intercourse between the two countries. The failure of the so-called *Patriot* uprising, in 1787, brought to this country the first small band of immigrants. Easily foremost among them was the former Mennonite pastor Francis Adriaan Van der Kemp, whom John Adams, his intimate friend, characterizes as "a great man, a star of first magnitude." [2] "Had he been as great a master of our language as he was of his own," he writes on another occasion, "he would at this day have been one of the most conspicuous characters in the United States." [3] De Witt Clinton was equally impressed with his talents. "In a secluded, unassuming village," he wrote in 1820, "I have discovered the most learned man in America." [4]

Van der Kemp, together with Adam G. Mappa, Gerrit C. Boon and others, became connected with the Holland Land Company, an association organized in 1790 by a number of Dutch financiers, who chose to invest a portion of their capital in American land. Among the original founders of this company—six in number—there are three who deserve mention. Rutger Jan Schimmelpenninck was then a rising young lawyer at Amsterdam, and later became Grand Pensionary of Holland. His name will receive frequent mention in the following pages. Nicholas Van Staphorst and Willem Willinck were connected with prominent banking houses at Amsterdam, which for many years carried on the banking operations which the American government conducted with Holland.[5] Yet, although conditions in Holland were unusually

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1) F. de B. Van Hogendorp, *Brieven en Gedenkschriften van G. K. Van Hogendorp,* I., 244 et. seq.

2) John Adams, *Works,* x., 22, Adams to S. B. Malcolm.

3) Ibid., x., 224, Adams to Jefferson, 1816.

4) Quoted in Helen Lincklaen Fairchild, *Fr. Adriaan Van der Kemp,* 185.

5) The names of the founders are attached to a *Memorial to the Senate and House of Representatives of the Commonwealth of Pennsylvania,* in connection with one of the numerous ejectment suits instituted against the company. (Pamphlet, Pennsylvania Hist. Society, no date.) In this memorial the reason for the organization of the company is briefly given as follows: "Having acquired..... considerable estates, and perceiving great troubles about to come upon our country, a natural sentiment inclined us to place a part, at least, of our property beyond the vicissitudes of civil dissentions and revolutionary government. Attached as we were to the cause of liberty in Holland, with this view we turned our thoughts to America, confidently believing that whatever was precious to us in interest or affection, would best be secured among a virtuous people whose government was republican....."

favorable for emigration, owing to the dissatisfaction with French influence and to the growing economic distress which followed upon the establishment of the Continental System, only a small number of Dutch Settlers were induced to occupy the company's land in western New York and Pennsylvania.

Toward the middle of the century came a more numerous and more influential group of immigrants. Indeed, the total number of Dutch who had come to these shores between 1609 and 1846 was after all but a Gideon's band in comparison with these newcomers. As in other movements of a similar kind in the course of American history, an economic motive was not entirely lacking in this case, but the religious factor should receive a far stronger emphasis than the economic. The pioneers of this movement have, not inaptly, been called the *Pilgrim Fathers of the West.* They were Seceders (AFGESCHEIDENEN) from the Established Reformed Church, who refused longer to endure the petty persecutions to which they were subjected. The religious character of the movement is shown by the fact that whole congregations were transplanted. The vanguard passed the winter of 1846-'47 at New York, where they still met fellow-countrymen with whom they could converse in their native language. But their destination was farther West. Passing along the Erie Canal in open flat-boats, they then wound their way along the Great Lakes, and disembarked on the eastern shore of Lake Michigan, near Black Lake. During the same year another party traveled westward from Baltimore, and, after a long and tedious journey by land and water, settled on the prairies of Iowa. In either case immigration was conducted under the leadership of their respective pastors. In 1849 the Dutch colony in the forests of western Michigan numbered some 3,000 souls, scattered about in several communities which have ever since retained the typical Dutch names then conferred upon them,—in Hol-

land, Groningen, Zeeland, Overisel, Drenthe, Graafschap and Vriesland.[1]

From that day to this, immigration from the Netherlands, generally speaking, has continued without interruption, though it has long since lost its religious character. It is particularly during the last six decades, then, that the Dutch have contributed their share toward the making of the American nation, small though that share may be compared with the contributions made by the Irish, the German, the Latin and the Slav. A study of this movement as a whole would, no doubt, reveal the Dutch immigrant at his best; through his industry many a square mile of our virgin soil has been brought under cultivation, and in his advance westward he has ever carried with him the church and the school, with all that these institutions imply. At the present day larger or smaller communities of them are to be found in each of the northern tier of states from New York to Washington, and in at least a dozen states to the south of this line. Outside of the main areas, however, which roughly centre around Paterson, N. J.; Rochester, N. Y.; Grand Rapids, Mich.; Chicago, Ill.; and Pella and Sioux Centre, Iowa, their numbers are so insignificant as almost to escape notice. It is only in western Michigan and in Iowa that they

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1) Two original pamphlets by leaders of this movement are to be found in the Royal Library at The Hague:

Brummelkamp, Rev. A., *Holland in Amerika—de Hollandsche Kolonizatie in den Staat Michigan.*

Scholte, Rev. H. P., *Een Stem uit Pella,* 1848. A translation of this, by Jacob Van der Zee, appears in the *Iowa Journal of History and Politics,* vol. IX., (1911), pp. 528-574. In vol. X. of the *Iowa Journal,* pp. 363-381, Van der Zee gives a translation of John Hosper's *Diary of a Journey from the Netherlands to Pella, Iowa, in* 1849.

Among the best secondary accounts are:

1. Versteeg, D., *De Pelgrim Vaders van het Westen,* Grand Rapids, 1886.

2. Dosker, Rev. Henry E., *Levensschets van Rev. A. C. Van Raalte,* Nykerk, 1893.

3. Cole, Cyrenus, *Pella—A Bit of Holland in the New World,* in *Annals of Iowa,* vol. III., 3rd Series (Jan. 1898).

4. *Gedenkboek van het Vijftigjarig Jubileum der Chr. Ger. Kerk,* Grand Rapids, 1907, contains two well-written, well-documented chapters, dealing chiefly with the ecclesiastical side of the question, by Dr. Henry Beets.

5. Huizenga, George Ford, *What the Dutch have done in the West,* Philadelphia, 1909, pp. 52. Prize essay on this subject, awarded to students of Hope College, Holland, Mich., by Edward Bok. A brief, but fairly comprehensive study of the entire movement. Gives no references.

are sufficiently numerous to impress their social characteristics, and, to a certain extent, even their language upon entire cities and countries.

Thus, with some degree of certainty, the assertion may be made that since the days of Stuyvesant and Van Twiller the Dutch tongue has never ceased to be spoken on this continent; and, with even greater certainty, that the number of those who use either the spoken or written language is larger today than at any previous time in our history.

And, from the very nature of the case, this immigration movement has tended to strengthen and multiply the relations between the United States and the Netherlands.

During the years 1803 to 1840, the period which has been chosen for more intensive study, the relations between the two countries were very largely of a commercial character. A discussion of the Holland Land Company is here omitted, for, though it overlaps nearly the entire period, it was organized at least a decade prior to 1803, and several phases of its history do not belong to a study on Holland-American relations. At the opening of the period the last installments of the Dutch loans were being repaid, so that this line of connection had practically been eliminated. Although many hundreds of emigrants embarked for the United States from Dutch ports, the vast majority of these were Germans; arrivals from Holland were as yet few and far between. This phase of the subject, therefore, does not call for separate treatment. Our diplomatic relations with the Netherlands, though not entirely devoid of interest, were certainly of secondary importance in comparison with the problems arising out of trade and navigation. This was emphatically true of the years 1803 to 1813, when diplomatic relations were suspended entirely, and when the tremendous political and economic struggle between England and France disturbed the commerce of the whole civilized world to such an extent that the history of trade forms an important part of the history of the period.[1)]

[1)] For a broader discussion of this statement see a recent article by Dr. W. E. Lingelbach, "Historical Investigation and the Commercial History of the Napoleonic Era," in *Am. Hist. Review*, vol. XIX., No. 2, January, 1914.

The American minister at The Hague had been recalled in May 1801, [1] and no successor was appointed until after the downfall of Napoleon. The reason for his recall, as Secretary Madison explained, [2] was not due to any grievance or ill-will against Holland, but solely to the desire of the Jefferson administration to economize on expenditures. This explanation must have been interpreted as a polite diplomatic subterfuge by the Dutch minister at Washington, who in his despatches makes pointed comments on our abundant harvests, on the diversified products of the soil, and on the growing commercial prosperity of the country. And so in reality it was; for the political status of Holland had changed for the worse since the first Dutch minister arrived at Philadelphia in 1783. In 1795 Holland became the ally of France, and in succeeding years the nation experimented with a series of governments, which culminated, in 1806, in the establishment of a kingdom, with Louis Bonaparte, a brother of the French Emperor, as king. The last three of these changes were expressly dictated by Napoleon, who aimed to bind Holland more closely to France, in order to insure the success of his policy with regard to England. An almost endless number of citations might be made from the voluminous correspondence of Napoleon, illustrating the extent to which the foreign policy of Holland was controlled by France for many years prior to July, 1810, when she actually became a portion of French territory. Under these circumstances it virtually became a needless expense to the American government to maintain a separate mission in that country.

Meanwhile the task of safeguarding the interests of our merchants and shipowners, trading with Holland, was entrusted to Sylvanus Bourne, the American consul-general at Amsterdam. And to his credit it must be said that he performed that difficult task quite as well as any regularly accredited envoy could have done. This is not saying, however, that he was entirely successful, for the spoliation claims later instituted against the Dutch government tell a different

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[1]) Original letter of recall, May 30, 1801, signed by Jefferson and Madison, is in the Rijks-archief at The Hague, *Buitenlandsche Zaken, Amerika,* deel 359.

[2]) R. A., *Buitenl. Zaken, Amerika,* 359, Madison to Van Polanen, July 30, 1802.

story. But such losses as were sustained by American shipping were due to causes which were entirely beyond his control. These were years of great uncertainty for that portion of our seaboard population engaged in foreign commerce. A single voyage might bring rich returns, it might also involve heavy losses—losses which were not due to a sharp decline in market prices, but to the restraints of one kind or another which the international diplomacy of the time imposed even upon the trade of neutrals. Able and alert as Bourne showed himself to be, he was as powerless to prevent the restrictive legislation of the Dutch government, as he was to calm the violent storms of the North Sea which annually wrecked a number of our vessels off the coast of Holland.

The Napoleonic régime collapsed toward the end of 1813, and with it collapsed also the vast economic system which had come to bear his name. The trade of the United States,—of the entire world, in fact—entered upon a new era. War prices no longer prevailed in Holland, and the peculiar risks and uncertainties which had lent such a variety of interest to the preceding years were now a thing of the past. Before many years, the Dutch resumed their former position as the nation's carriers, and the monopoly which Americans had enjoyed of this branch of the trade also became a memory of the past. The return of peace did not, it is true, put an end to mutual complaints against trade restrictions, but these complaints were of an entirely different nature than during the decade preceding 1813. Then, too, the fact that we now had to deal with an independent nation, which was free to shape its navigation policy as its interests seemed to dictate, was another important factor entering into the changed situation, which put an entirely different face on our commercial relations with Holland.

One of the first results of Dutch independence was the restoration of diplomatic relations with the United States, a step in which the Dutch government took the initiative. The part which England attempted to play in this move will be told later. Yet, looking at this period from 1814 to 1840 as a whole, it is again the strictly commercial, rather than the diplomatic phase of the subject, which is of primary interest and importance. Tonnage duties and tariff schedules, and discussions relative to a new commercial treaty—these out

and out commercial questions engaged nearly the entire attention of the diplomats of both countries.

To repeat, therefore, the main, though not the sole, interest of these 37 years of Holland-American relations centres in questions growing out of the commercial intercourse between the two countries. And it is this feature which gives a large degree of unity to the period.

The reason for fixing upon the year 1803 as the opening date of this study, rather than some earlier date such as 1783, or some later date such as 1814, will possibly require a word of explanation. The choice may in part be considered arbitrary, although, on the other hand, it seems justified from the fact that it marks the rupture of the peace of Amiens and the resumption of war between England and France. A striking feature of this prolonged contest was the persistent policy of France to starve England into submission by excluding her products and manufactures not only from the ports of France, but also from those of every European country which, through the success of French arms or diplomacy, was compelled to become her ally in this cause. After 1806 this economic phase of the war came to be known as the Continental System of Napoleon, but so far as Holland was concerned, the Berlin decree of that year merely intensified the exclusion laws which were already being enforced there since 1803.

The Continental System as such—a definition of which need not be attempted here—is a subject which properly belongs to the European history of the period; but it is here approached very largely from the American point of view, with the object of determining its effects upon our commerce with Holland. This plan has necessitated an examination of the exclusion decrees and commercial regulations of Holland, and, to some extent, of the actual administration of the system by Dutch and French officials. It should be borne in mind, however, that the primary object has been to set forth the American rather than the European aspect of the subject. The two cannot be entirely separated, to be sure, for it would not be possible to make a detailed study of the Continental System in Holland without devoting considerable space to the peculiar position of the Americans as neutral carriers. It is possible, on the other hand, to trace the vicissitudes of our commerce during the operation of the system,

without entering into the larger European aspect of the problem any further than is necessary for purposes of explanation.

A second reason why the choice of the year 1803 seems justified is that it furnishes a proper perspective for forming a judgment on the effect of the Napoleonic System after it came to be applied to neutrals. It is only by comparing our trade with Holland under the Berlin and Milan decrees with that of the preceding years, that an adequate idea can be formed of what these decrees actually meant to the American shipper as well as to the Dutch consumer.

It may at first thought appear that the year 1814, the year when diplomatic relations were reëstablished, and when trade was resumed on a normal, peace basis, would be a more suitable date for beginning a study of this nature than the year 1803. There are, however, a few obvious objections to this plan. In the first place, though it is often idle to speculate on what might have been, in this instance it is highly improbable that there should have been a gap of some thirteen years in our diplomatic relations with Holland, had the French Revolution not produced a Napoleon, who carried out the ambitions and policies of his nation, as well as his own, when he made Holland a dependency, a mere vassal state, of France. In the second place, the axiom that present-day conditions must be explained from causes operative in the past, is strikingly illustrated when applied to the years following upon the Napoleonic era. Thus the entire subject of spoliation claims, which the United States instituted against Holland and other European countries, is one of the aftermaths of this period, and the subject can be made intelligible only by a study of the restrictive legislation which gave rise to them. Again, it is due to causes growing out of the grotesque economic system of Napoleon that at least one explanation must be sought for the difficulty in agreeing upon a satisfactory basis for a commercial treaty between the two countries. It seems more logical, therefore, to carry the subject back to 1803, in order to trace these causes to their source.

The period from 1814 to 1840 also has an interest all its own. Until 1815 it had been the policy of the American government to protect American shipping by laying discriminating tonnage and import duties on foreign vessels. After

1815 this protective policy was gradually abandoned in favor of reciprocity. The first American reciprocity act, that of March 3, 1815, was general in its nature and applied to all foreign nations that were willing to reciprocate. The king of The Netherlands made an immediate, and a favorable, response to this act in his proclamation of May 27, 1815. After three years of delay, Congress made concessions to Dutch shipping similar to those which Holland had made in favor of American shipping. The act of April 20, 1818, established a partial reciprocity between the two countries. Holland thus became the second nation to obtain this favor from the United States, England having already received it in 1815. After 1818 both countries sought to obtain a more perfect reciprocity, but found it difficult to reach an agreement. The negotiations on this subject dragged along for many years, and it was not till 1839 that a reciprocity convention between the two countries was adopted.

NOTE: From 1795 to June, 1806, the official name of the Dutch government was the *Batavian Republic;* in 1806 it was changed to the *Kingdom of Holland,* and in 1814 to the *Kingdom of the Netherlands,* which has since remained the official designation. Even the most careful writers have come to use "The Netherlands" and "Holland" without discrimination when referring to either the country or to the government, and this well-established, though erroneous, practice is here adhered to. The practice arose from the fact that the provinces of North and South Holland were the centres of greatest wealth and political influence, and consequently played a more important part in the history of the nation than did the rest of the provinces combined. "Holland" and "Dutch" when used either as noun or adjective, have also become synonymous.

CHAPTER II.

A Period of Prosperity For The American Trader. (1803—1807.)

The return of peace, in 1802, was hailed with far greater joy by the nations of Western Europe than among the commercial population of the United States. The European wars, as the Dutch minister at Washington expressed it in one of his last despatches, had enriched the American nation at the expense of Holland, France and Spain, and had led to a mighty increase in American commerce. "The wisdom of the previous American administration," he writes on May 12, 1802, "in maintaining a position of neutrality among the warring nations; the complete predominance of England on every sea, by reason of which the shipping of our nation, of France and Spain has ceased entirely, and the trade with the colonies of these nations has, as a consequence, been opened up to the Americans; the spirit of revolution which has swept over a large part of Europe, and which has caused the transfer of huge capitals to the United States, the only place of safety; all these misfortunes under which the greater part of Europe has suffered, have combined to raise American commerce to a very high rank, and have placed the United States next to England among the commercial nations of the world." Not only had our carrying trade been increased, but, as he relates further with ill-concealed jealousy, that same nation had also been blessed with a succession of favorable crops, and this, together with the opening up of new lands, had more than doubled the products of the soil in the last eight years. During the wars these products had brought rich returns to their owners when sold in the markets of Europe and the West Indies. It would, doubtless, be incorrect to assume that the slight jealousy which he here reveals was indicative of the state of mind of the entire Dutch people; nevertheless, as the years go by this feeling crops out again and again.

In this same despatch he gives expression to the following opinions on the business methods employed by the Yankee merchant and trader, as he had come to know them after residing in this country some six years. "As in their trade, so in their expenditures—everything has been exaggerated; bad faith, downright cheating and the breaking of contracts have become universal, yet these methods have failed to increase their capital; and by reason of their hazardous speculations and their shameful business transactions, they have forfeited both their good standing as merchants and the respect of their fellowmen. A contemplation of the present state of things in this country," he confesses, "has given me a more just appreciation of the sound common sense and of the old customs and virtues of my countrymen, who, by honesty in trade, combined with a wise frugality, have arisen to such a degree of prosperity that, in the last war, they were not only enabled to prevent their complete destruction as a nation, but even to gain the respect and confidence of their jealous English rivals." Unfortunately, a year or two later any American might have retorted, with perfect truth, that the entire commercial population of Holland were resorting to practices equally false and dishonest as those which are here charged up against the Americans.

Owing in part, at least, to these "vicious practices," he was confident that the commercial nations of Europe, his own included, "need entertain no fears that the Americans . . . . will stand in their way," now that the return of peace had restored trade to its ordinary channels. Dutch gin, it is true, might find a less favorable market in America, for in recent years, he writes, "Americans have become addicted to the use of French brandies; moreover, their own distilleries have increased in number," and he predicted a still further increase, for, owing to the lack of exportation, the price of grain would be greatly reduced. He also expected a falling off in the exportation of broadcloth, inasmuch as the Germans had learned to manufacture a higher grade of this article (to which they attached the familiar Leiden trademark), and were already exporting it to the United States by way of Hamburg and Bremen. Yet, in other lines of trade he was confident the Dutch merchant would more than

hold his own, and that before long a large number of American ships would be lying idle at their wharves.[1]

This prediction might, indeed, have come true, if the Peace of Amiens had put an end to the European conflict. In 1802 every branch of Dutch trade and industry was beginning to revive; during the nine months following upon the conclusion of peace, upwards of 4,000 Dutch vessels were said to have entered the ports of Holland.[2] The trade between the Dutch East Indies and the mother country, in which many an American ship had been engaged during the war, now again became a Dutch monopoly. Unfortunately for the Dutch nation the Peace of Amiens proved to be merely a truce; another ten years of warfare was to ensue, and during a part of this period the trade of Holland was once more carried on very largely under the Stars and Stripes.

As early as July 19, 1803, some two months after war was resumed, we find a mercantile firm at Amsterdam writing to consul Bourne that the occasion had again arrived "for a brisker intercourse between this country and your States." "The political state of the continent," they continue, "must afford many facilities to American trade . . . . England's intercourse with the greatest part of the continent is cut off; the importation of its produce, both foreign and domestic, severely prohibited both in this and the Hanseatic Republics . . . . In this dilemma American vessels must become the principal carriers of the different articles of trade, and of colonial produce in particular. . . . North American produce is considerably higher." [3] And the testimony of a Dutch merchant at The Hague, about a month later, would indicate that this prediction was already being fulfilled. "Our merchants," he writes on August 30, "now hoist only the American flag on board their vessels to carry on their commerce with foreign countries, as it is the only one which the English suffer to pass free. Accordingly, vessels belonging to the United States arrive daily in the Batavian

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[1] *R. A., Buitenlandsche Zaken* (1795-1813), *Amerika,* deel 358; R. G. Van Polanen to Van der Goes, May 12, 1802.

[2] J. De Jong, *Geschiedenis van het Vaderland,* 2de druk, Nijmegen, 1895; Deel III., 96.

[3] Louvrex and Van Lennep to Bourne, *Bourne MSS.,* Division of Manuscripts, Library of Congress.

ports, the cargoes of which bring in great profits to their owners." [1]

As has been stated before, one of the outstanding features of this war was the effort of France to bring about the commercial isolation of Great Britain from the continent, with the object of ruining her trade and industry and thus compelling her to sue for peace. This policy did not originate with Napoleon, nor was it by any means a new one in 1803, for it had been tried out more or less consistently in France since 1793.[2] During the second decade of the continental wars (1803-1813) the exclusion system was worked out with far greater detail, and in the end came to be applied throughout entire Europe. In Holland it may be said to have been inaugurated by Napoleon's order of May 13, 1803, in which he demanded that an embargo be laid on British shipping in the harbors of the Batavian Republic and her dependencies.[3]

The government of Holland, at this time in the hands of a weak and vacillating Directory or Executive Council of twelve men (Staatsbewind), showed great reluctance in complying with this demand. And they had a two-fold motive in doing so. In the first place, about two months before the war broke out, the Dutch foreign office was planning to shake off the perpetual alliance against England which had been entered into in 1795, and to bring about the neutrality of Holland in the coming struggle. On March 27, 1803, a "projet de neutralité" was forwarded to the Dutch ministers at Paris and London, for the purpose of agitating the question in the newspapers[4]; and on April 12 the matter was formally brought to the attention of Napoleon.[5] On May 20, three days after Napoleon's order for an embargo had been communicated to the Dutch

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[1] News letter to *The Aurora,* Oct. 23, 1803; dated The Hague, August 30.

[2] Prof. J. H. Rose, in his chapter on *The Continental System,* in the *Cambridge Modern History,* (Vol. IX., chap. XIII), traces the policy which culminated in the Berlin and Milan Decrees back to 1793.

[3] *Correspondance de Napoleon* Ier, VIII., 314, No. 6743. Napoleon to Sémonville, May 13, 1803.

[4] This *projet* is printed in Colenbrander, *Gedenkstukken der Algemeene Geschiedenis van Nederland van* 1795 *tot* 1840, Staatsbewind en Raadspensionaris, 1801-1806; IVde deel, 2de stuk, 408.

[5] Ibid., IVde deel, 2de stuk, 415-416, Pontoi to the First Consul, April 12, 1803.

government, England expressed her willingness to sanction this arrangement, provided France would consent to withdraw her troops from Dutch soil, and to release the Dutch government from all its engagements to furnish aid to her ally during the war.[1] To issue an embargo decree at that moment would therefore have been highly impolitic, and would in fact be a declaration of war.

In the second place, the Dutch government did not understand (or at least professed not to understand) the exact nature of the order which had just been received, and, as a means of delaying its execution, sought to obtain some further explanation or modification. In replying to the note of Sémonville, the French ambassador at The Hague, the Dutch minister of foreign affairs argued that an embargo act would result in a great loss to Holland, and a great gain to England, and would therefore in effect be contrary to the real intentions of Napoleon. He pointed out that at least forty vessels were at that moment returning home from the West Indies, and a much larger number from the East Indies; and that at the first sign of a hostile act all of these vessels with their valuable cargoes would be confiscated by England. He concluded by stating that an embargo "as general as the one which is proposed, cannot fail to estrange neutral powers and would give rise to complaints and to demands for indemnification." [2]

Meanwhile England had begun hostilities against Holland by laying an embargo on Dutch vessels in English ports (May 19). The Dutch government, having by this time become convinced that Napoleon would listen to no further arguments on the subject of neutrality, now saw the need of retaliating in kind, and on May 24 resolved "that a general embargo shall be laid on all ships belonging to the subjects of His Brittanic Majesty in the ports of this republic." [3] Though Holland would ultimately have been compelled to carry out the wishes of Napoleon, irrespective of the course which England pursued, the action which

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[1] Ibid., IVde deel, 1ste stuk, 340-341. Lord Hawkesbury to Robert Liston, May 20, 1803.

[2] Colenbrander, *Gedenkstukken,* IVde deel, 2de stuk, Van der Goes to Sémonville, May 19, 1803.

[3] R. A., *Staatsbewind, Minuteele Notulen van het Staatsbewind,* deel 84, No. 46.

England took had the effect of hastening the adoption of the embargo in Holland. In communicating this order to the English ambassador, the hope was expressed that it might be considered "as a measure of necessity not of choice, taken in consequence of the urgent remonstrances of the French."[1]

This incident may be taken as a typical example of the manner in which government officials in Holland, from the highest to the lowest, conspired with their subjects, a large percentage of whom were in reality but their fellow-merchants and traders, in the hopeless endeavor to thwart the application of the exclusion system which Napoleon was determined to impose upon them. When it was no longer possible to delay the application of a particular measure, we find them again and again offering but a half-hearted co-operation in enforcing it, and conniving at the open violations of the law, which were of daily occurrence. Many of Napoleon's political dealings with Holland must to a large extent be explained in the light of this policy of delay and evasion.

The embargo act of May 24 was but the first of a long series of decrees and regulations in regard to commercial intercourse with England, which were to end only with the overthrow of Napoleon. An act so general in its nature soon necessitated a number of supplementary measures, some of them serving to explain the meaning of the embargo, while others contained new and additional features. The first of these was the decree of July 5, 1803, which calls for more extensive discussion. There were two outstanding features of this decree. On the one hand, it regulated the exportation of shipbuilding material, materials of war, and foodstuffs; on the other hand, it forbade the importation of enemy goods, and laid down conditions in regard to the importation of goods from neutral countries. Both phases of the law were modified within the next half year, and it was from these modifications in particular that the American trader was to profit. It may be convenient to treat each phase of the law separately and at the same time to note its actual operation down till the middle of 1805, when a change of policy occurred.

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[1] Colenbrander, IVde deel, 1ste stuk, 341-342, Robert Liston to Lord Hawkesbury, May 25, 1803.

In the first place, the exportation of all shipbuilding material and of materials of war was forbidden, except by the special consent of the Directory.[1] This special consent was not difficult to obtain where exportation to the United States was desired. Thus, in February, 1804, Van Staphorst & Company were allowed to export 500,000 pounds of old iron to the United States.[2] On April 10, an Amsterdam firm requested permission to send 50,000 pounds of gun-powder to Boston, which was granted six days later.[3] There was also an occasional shipment of sailcloth,[4] but the most common requests were for the exportation of gunpowder, and one begins to wonder why there should have been such a demand for this article at Boston and New York. The Directory may also have had their doubts as to whether these shipments were really being sent to the United States, for we find them occasionally granting a request, but reducing the amount asked for to one-half or one-third.[5]

The provision of this law in regard to the exportation of foodstuffs was largely due to the vigilance of the French ambassador, Sémonville, who reported to Talleyrand on June 27, 1803, that the most scandalous contraband trade was being organized, and that shiploads of provisions, evidently destined for the enemy, were being sent out daily. He states that he had requested the Dutch government to forbid the further exportation of foodstuffs by sea, and that he had meanwhile taken matters into his own hands by ordering the French agents at certain ports to place under sequester every vessel laden with foodstuffs.[6] The decree of July 5 was by no means to his liking, for it merely forbade the exportation of foodstuffs to the enemy, but placed no restriction on their sale to neutrals. The Dutch government, half suspecting that Sémonville's activity in the matter was due to a

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1) R. A., *Staatsbewind, Min. Notulen van het Wetgevend Lichaam der Bat. Rep.*, deel 13.

2) R. A., Ibid., *Min. Notulen van het Staatsbewind,* deel 100, Feb. 17, 1804.

3) Ibid., deel 105; also *Zeeraad,* II. April 10, 1804.

4) Ibid., deel 109, June 12, 1804 .

5) Thus a request for shipping 35,000 pounds to New York, was reduced to 12,000 pounds; *Zeeraad,* III., March 11, 1805.

6) Colenbrander, IVde deel, 1ste stuk, 78; Sémonville to Talleyrand, June 27, 1803.

desire to line his own purse, ignored his further protests, and resolved to await the opinion of Napoleon himself.

In the instructions to the committee which was appointed to confer with Napoleon during his visit to Brussels, the argument is advanced that butter and cheese were the only products for which ready money could be obtained so as to establish a more favorable balance of trade. The English used little cheese, it was stated, but paid a high price for butter, which was used exclusively by the wealthy and not for provisioning their ships. Moreover, every cask of gin smuggled into England would decrease the income of the English government, and increase both the public and private resources of the Dutch nation.[1] A later communication to this committee [2] indicated that the government was anxious to find out whether it really was Napoleon's intention to prevent the exportation of foodstuffs to England in neutral vessels by every possible means. Napoleon listened attentively to the arguments presented by the committee, but to their plea that it was an absolute necessity for Holland to allow the exportation of butter, cheese and salted meat, his only reply was, "Nous examinerons cela encore." [3] It is significant, however, that he did not forbid the practice entirely, although he was well aware that neutral nations were thus indirectly granting assistance to England.

Sémonville, apparently influenced by Napoleon's attitude, now conceded that the arguments which had been advanced to justify the exportation of butter and salted meat were sound, but that they could not be used to justify the exportation of cheese, which was an article of daily use on board of every English man-of-war. He therefore requested the passage of a law prohibiting the exportation of cheese to all countries except France and Spain until the first of April, 1804.[4] Two days later, on August 25, a decree embodying this request was provisionally put into effect,[5]

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1) Colenbrander, IVde deel, 2de stuk, 443; Besier's instructions to the committee, July 5, 1803.

2) Ibid., 443; Bosscha to Van der Goes, July 21, 1803.

3) Colenbrander, IVde deel, 2de stuk, 449-451; Van der Goes' report of the committee's interview with Napoleon, July 23, 1803.

4) Sémonville to Van der Goes, August 23, 1803; quoted in Vreede, *Inleiding tot eene Geschiedenis der Nederlandsche Diplomatie*, deel 2, 2de stuk, bijlage VI., 21-23.

5) R. A., *Staatsbewind, Min. Not. van het Wetg. Lichaam der B. R.*, deel 13.

and on October 18 this provisional measure was renewed for an indefinite period.[1]

This decree at once raised a storm of protest throughout Holland. Before long the American vice-consul at Amsterdam began to receive requests from Dutch mercantile houses to use his influence in having the privilege of exporting cheese extended to the United States. In transmitting a number of these memorials to the foreign office on October 5, he writes that he was daily pestered by Dutch firms which desired to fill the orders they had received from American business houses.[2] The Dutch government hesitating to act on its own responsibility, referred these communications to Schimmelpenninck, the Dutch ambassador at Paris, with a statement that the vessels were lying in readiness to sail and that the stormy season was approaching.[3]

Schimmelpenninck was easily the foremost statesman and diplomat whom the Dutch nation produced during this period of French domination. In fact, he deserves to be ranked among the greatest Dutch statesman of any time. At that moment he stood high in the confidence and esteem of Napoleon, who, only two months earlier, had paid him a very flattering compliment for the part he played in the negotiations which led to the Peace of Amiens. Several years earlier he had begun to take an interest in things American by becoming a member of the Holland Land Company, and since then he had shown his appreciation of American institutions, by advocating the adoption of a Federal government in Holland, with a President at the head. In connection with the proposed change of government in 1802, one of his contemporary admirers says, "Schimmelpenninck has *always* preached in favor of the American constitution, and has always told me that he found this constitution to be the best one", and he asks whether Schimmelpenninck would not become the Washington of Holland in case such a constitu-

1) R. A., Ibid., deel 14.

2) R. A., *Buitenl. Zaken, Amerika,* deel 359; H. H. Damen to Van der Goes, Oct. 5, 1803. Here also are found a number of the requests referred to in the text. On Oct. 4, e. g., the firm of P. H. Eeghen at Amsterdam states that they have received an order for 1500 cheeses from Streatfield and Clarkson, N. Y., and ask whether it is possible to obtain a permit to export them.

3) R. A., Ibid., deel 359; Van der Goes to Damen, October 7, 1803; also Colenbrander, IVde deel, 2de stuk, 463; Van der Goes to Schimmelpenninck, Oct. 7, 1803.

tion should be adopted.[1] But the readiness with which he took up the matter now entrusted to him probably sprang from another motive than his friendship for the United States. He was a thorough patriot at heart, and was touched to the quick by complaints on the part of the commercial population at home.

In his first communication to Talleyrand on the subject of non-exportation of cheese, he skillfully put forward the American rather than the Dutch side of the case, by pointing out that under the treaty of 1782 Holland had agreed to treat the United States on the footing of the most favored nation. On this ground, he asserted, the United States was objecting to the recent action taken by the Dutch government.[2] Nor was he content with his own efforts, for he also made use of the services of Robert Livingston, the American minister at Paris. Between them it was agreed, according to Schimmelpenninck's report, "that we could most easily attain the object sought after by both governments, if he [Livingston] should continually place himself in the foreground as the complaining party.[3] After trying out the effect of this policy for nearly three months, Livingston sent a note to Schimmelpenninck, which was clothed in the form of an official protest to the Dutch government that the law in question had not yet been modified so far as it affected American interests, and which contained a mock threat that the United States could no longer maintain silence on so important a matter. "If the state of war renders any precautions necessary in effecting the shipments," he adds by way of compromise, "the United States will object to none that are imposed upon other nations." [4]

This note, according to previous agreement, was duly transmitted to the French foreign office, with a polite, but firm, request that the French ambassador at The Hague might be instructed to make a speedy settlement of the matter, and with a delicate hint that further delay might embroil

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[1] Colenbrander, IVde deel, 2de stuk, 381; Gogel to Canneman, August 31, 1802.

[2] R. A., *Buitenl. Zaken, Frankrijk,* deel 216; Schimmelpenninck to Van der Goes, October 14, 1803.

[3] *R. A., Buitenl. Zaken, Frankrijk,* 216; Schimmelpenninck to Van der Goes, November 20, 1803.

[4] R. A., Ibid., 218; Livingston to Schimmelpenninck, Feb. 9, enclosed in Schimmelpenninck's despatch of Feb. 26.

the ally of France in difficulties with the United States.[1] The game thus played by these two diplomats in the end had the desired effect upon Napoleon, and on March 31, 1804, Schimmelpenninck transmitted the intelligence "that the exportation of our cheese to the United States shall be permitted in the same manner as now holds for France and Spain." [2] A few days later the Dutch government authorized the proper authorities to grant all pending and all future requests for exportation of cheese to the United States. As a precaution to prevent the goods from reaching the enemy, the Dutch shipper, not the American carrier or the American consignee, was required to deposit with the proper officials a bond amounting to double the value of the cargo, which was to be forfeited in case a certificate, showing that the goods had actually been landed at an American port, was not returned within six months, with the signature of the French or Dutch consul.[3] A merchant at Amsterdam was the first to apply for the shipment of a quantity of cheese to the United States and thence to Surinam. He proved to be the same person who, in his capacity of vice-consul of the United States, (a position which he no longer held) had brought this matter to the attention of the Dutch government.[4]

It is a curious, and yet a significant fact, that a similar privilege was not granted to any other neutral country, nor, so far as is known, was even applied for. The question naturally presents itself, why all this ado about allowing the exportation of an article of luxury to a distant nation across the sea? Did the cheese merchants of Holland annually send

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1) R. A., Ibid., 218; Schimmelpenninck to Talleyrand, Feb. 24, enclosed in Schimmelpenninck's despatch of Feb. 26.

2) R. A., Ibid., 218; his original despatch (No. 36) appears to have been lost, but the substance of it is given in his note to Livingston, April 3, 1804, enclosed in his despatch No. 40, April 9.

3) R. A., *Staatsbewind, Min. Notulen—Staatsbewind,* 105, Apr. 5, 1804.

4) Ibid., April 6. The following form of agreement, found among the *Bourne MSS.*, was probably in common use. Les soussignés s' engagent de procurer dans l'espece de six mois à son excellence l' ambassadeur de l' Empire Francais un certificat delivré par l' agent des relations commercialles de France, qui prouve que les Dix-sept cent Livres de Frommage, qui seront chargés ici à bord du navire Américain nommé Aimable....destiné pour New York ...seront déchargés dans le dit port, et s' engagent de plus de payer le double du valeur du susdit frommage en cas que le dit certificat ne soit procuré.
March 14, 1805. (Signed) Daniel Crommelin et fils.

over such large quantities of their wares that absolute ruin stared them in the face, now that a government regulation prevented them from supplying their customers? During the year ending September 30, 1803, the United States received only 41,175 pounds of Dutch cheese, valued at $10,293.75.[1] This amount was sufficient to supply only a few hundred households, while the money value was so insignificant that its loss would hardly be felt when distributed among a number of Dutch merchants, who annually disposed of not merely thousands, but millions of pounds of cheese to foreign buyers. When it be remembered also that cheese had long been an American export of no inconsiderable value, it becomes perfectly clear that this measure was not as innocent as it at first appears.

A few trade statistics may help to explain the motives which led to its adoption. During the year 1802, when there was no prohibition to export this article, 10,683,961 pounds were sent abroad. The following year, with exportation restricted during the last three months to only two countries, the figure rose to 16,757,812 pounds. In 1804, with exportation restricted to two countries during the first three months, and to three countries during the last nine months, it amounted to 19,019,266 pounds.[2] One would expect to see a sharp decline, but curiously enough, there is a gain of nearly three million pounds over the preceding year. Now during the same year only 70,313 pounds of Dutch cheese were sent to the United States,[3] not quite double the amount received in 1803. Clearly these additional three million pounds must have been shipped to other markets, most likely to those neutral and belligerent ports to which exportation was prohibited.

As has been stated, one of the first permits was for a shipment by way of New York to Surinam, or Dutch Guiana, which was then a British and not a Dutch colony. If this case were the only one of its kind, there would be no need of referring to it at all. For, though it was a fraudulent operation to export cheese to Surinam—fraudulent in the first

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1) A. Seybert, *Statistical Annals of the United States,* (Philadelphia, 1818), 235.

2) R. A., *Collectie Goldberg,* deel 208, *Staten van In- en Uitvoer.*

3) Seybert, 235.

place because the law of Holland limited exportation to France, Spain and the United States, and in the second place because it required the use of a false certificate—the transaction might be justified on the ground that the cheese was destined for Dutch planters, who through the fortunes of war had become British subjects. Requests for exportation to Danzig, Riga and other northern ports were generally refused, although in one instance at least a direct shipment to Archangel was allowed.[1] But there appears to have been no difficulty in obtaining permits for exportation to the East and West Indies by way of the United States.[2]

It was therefore not the possibilities which the American markets offered for the sale of cheese, but the desire to make a fraudulent use of the American flag for disposing of what was then, and is today, one of the most important products of Holland, that led to the adoption of this measure. For, it was comparatively easy for an American captain, homeward bound, to store away a considerable quantity of this article, which occupied little space in proportion to its value, to induce a Dutch or French consul by fair means or foul to sign the requisite certificate showing that the cargo had been landed at an American port, or at a pinch to forge his own signature, and then to forward the goods to the port of destination either in the same vessel or in another. As likely as not this ultimate destination was a British colony or a port of the British Isles, so that the transaction was apt to involve a second trip across the Atlantic.

A third element of fraud entered when the vessel, instead of first going to the United States, would directly proceed to some forbidden British or Continental port. For, such a voyage required not only a false certificate, but also a false custom-house declaration and a falsification of the ship's papers in general. And this practice probably became more common than the former because it was more profitable. Suggestive as to the extent of the practice are the shipping lists in American newspapers. Thus on August 27, 1804, out of the fifteen American vessels in the port of Rotterdam, nine were

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1) May 27, 1805.

2) R. A., *Staatsbewind, Min. Not.....Staatsbewind,* deel 103. On April 10, 1804, a permit was granted for 20,000 pounds; April 12, for 2,000 pounds, etc.

destined to foreign ports.[1] At Amsterdam, which drew a larger percentage of American trade than Rotterdam, there were twenty-four American vessels on March 25, 1805, of which ten were destined directly for the United States and fourteen for ports on the continent or for the East Indies and China.[2] These figures, which have been selected at random, would seem to indicate that about three-fifths of our trade with Holland was carried on by vessels which plied back and forth between a Dutch port and some foreign port before returning to the United States. And during any one of the years 1803 to 1807 the number of American vessels reported in the ports of Holland is from two to four times as large as the number of arrivals from Holland in American ports.

We have, therefore, in all the circumstances surrounding the adoption of this bit of commercial legislation, as well as in the evidence on its actual operation, a recognition, on the one hand, of the important place which Americans had come to occupy in conducting the carrying trade of the Dutch nation; and, on the other hand, a concrete example of the way in which our carrying trade was increased by the operation of the exclusion system in Holland.

There was yet another feature of the decree of July 5, 1803, from which the American trader was to profit. After the last day of July, all goods imported, either directly or indirectly, from Great Britain or any of her colonies were subject to confiscation. To guard against the importation of such goods from neutral countries, all neutrals were required to present a certificate signed by a Dutch consul or by some local official at the place of lading, and indicating the name of the vessel and of the shipper, together with a statement as to the origin and destination of the goods. Without such a certificate no vessel was allowed to enter or to discharge its cargo, unless this should consist in whole or in part of goods which were of the growth or manufacture of Holland and her colonies, and unless the same vessel carried out from Holland a certain amount of goods corresponding to the value of those which were imported.

On August 17, 1803, a little over two weeks after this provision of the law had gone into effect, Mr. H. H. Damen,

1) *Amer. Daily Advertiser*, Oct. 25, 1804.
2) *Aurora*, May 21, 1806.

who was temporarily looking after American interests during the absence of Consul Bourne, requested the government to delay its application until some more convenient date, as regards American vessels coming from the United States and foreign ports, on the ground that no sufficient time had been granted to spread the news to American vessels which were on their way to Holland.[1] The Directory, ever ready to favor the American trader, upon whom the nation was daily becoming more dependent for the supply of foreign products, met this request part way by ordering that until the first of October no certificate should be required of ships coming directly from American ports, provided the ship's papers clearly indicated that the cargo had been taken on board before the decree had become known. For American vessels coming from any other port of the world the decree was to have immediate effect.[2]

Before long American vessels were beginning to experience difficulties, some because they had no certificates, others because their certificates were suspected of being false. Early in October there were 44 neutral vessels at Amsterdam, among them a number from America, which the French ambassador suspected of being English. He requested the government to make a close inspection, and meanwhile to grant no permits to unload.[3] Our commerce with Rotterdam, so Bourne reported on October 22, was likewise "embarrassed." "Several vessels loaded with cotton [are] prevented from discharging their cargoes because they had called in England for orders, and were not furnished with the certificates required by the decree of July 5 last, proving the property to be American." He stated that he would go to The Hague to seek relief from the government, "whose conduct in these cases I am led to believe, is more dictated by an extraneous influence, (which it has not the power to counteract) than by its own abstract view . . . . of the matter." [4]

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[1] R. A., *Staatsbewind, Min. Not. van het Staatsbewind,* deel 90. His memorial is quoted in the minutes of the Directory for Aug. 19, 1803.

[2] Ibid., deel 90, Aug. 25, 1803. A copy of this decision, bearing the seal of the Bat. Republic, is found among the *Bourne MSS.*

[3] Ibid., *Register van de Besluiten der Zeeraad,* II., contains two letters on this matter.

[4] *Bourne MSS.,* Bourne to the Secretary of State, Oct. 22, 1803.

Early in November, 1803, the July decree was somewhat modified owing to complaints from Denmark, and possibly also to the efforts of Bourne. Neutral vessels which had been compelled to run into a British port, were now permitted to enter and unload, provided they had neither broken cargo nor taken any additional goods on board. No certificates were required for vessels carrying iron from countries to the north of Holland, and shipbuilding material from other parts of the world. More significant still, all ports of the Republic were opened *"without any formalities,* to all merchandise of such a nature that the same cannot expressly be considered as having been brought, either directly or indirectly, from Great Britain or her colonies." [1] It will be noted that this was a relaxation of the earlier regulation in regard to certificates, and was plainly intended to encourage the fradulent introduction of English goods by neutral carriers. No attempt was made even to specify what should be considered as non-English goods; this matter was left to the decision of customs officers, who could be relied upon to welcome every vessel which entered without inquiring too closely into the origin of the cargo.

During the next twelve months the country was flooded with British goods, many of which ultimately found their way into Germany, Switzerland and France. Napoleon, through the daily bulletins which he received from Fouché[2], was well aware of this practice, but the proposed Boulogne expedition for a descent upon England, which demanded his entire attention, probably prevented him for the time being from taking any action. In the latter part of 1804, however, he gave orders that all intercourse between England and Holland must cease, and that English goods should be confiscated to the profit of the army.[3] Sémonville had not only forestalled this order completely, but had once more called upon the Dutch government to prohibit the exportation of foodstuffs except in so far as the law allowed, and this time

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[1] R. A., *Staatsbewind, Notulen van het Wetgevend Lichaam der Bat. Rep.,* deel 15, Nov. 3, 1803.

[2] Colenbrander, IVde deel, 1ste stuk, *Inleiding,* XXXVI., et seq., gives liberal selections from the work of Ernest d' Hauterive, *La Police Secréte du Premier Empire;* Bulletins quotidiens addressés par Fouché à l' Empereur, 1804-1805.

[3] *Corresp. de Nap.,* X., 36, Nap. to Talleyrand, Oct. 27; to Gen. Marmont, Nov. 1; Ibid., 40.

he made the additional demand that the certificates which the law required must be recorded and countersigned at the French legation.[1] Had any one but the ambassador of France presented this demand, writes the Dutch Secretary of Finance, the indignation which it caused would have been less extreme, for Sémonville was at that time openly accused of favoring contraband trade by the sale of permits.[2] The failure of the government to comply with his demand was due in part to the positive dislike they had conceived for this individual.

Sémonville thereupon again took the law into his own hands, and we soon find French consular agents and soldiers acting as though Holland was already a portion of French territory. In his despatch of November 2, 1804, Sémonville reported, with evident satisfaction, that no vessel containing foodstuffs was allowed to depart unless a certificate had been presented to one of the French commissaries and viséed at the legation. Certificates bearing the signature of a Dutch or French consul were now also required of all incoming vessels, and to facilitate the carrying out of this plan the French troops stationed along the coast were ordered to visit every vessel entering or leaving.[3] This was the first attempt at a more rigid enforcement of the exclusion system; from this time forward the use of certificates became a recognized part of the system, and American captains had to put up with the practice along with other petty inconveniences which the war imposed upon our trade with Europe.

It proved, however, to be merely an inconvenience and by no means diminished the amount of trade which Americans carried on with Holland. It was as easy to perpetrate fraud in introducing British goods as it was to obtain a false certificate showing that Dutch foodstuffs had not been landed at an enemy port. English officials were only too ready to coöperate with the Dutch officials in order to dispose of English goods and thus to defeat the intention of Napoleon, and, if the French officials became too meddle-

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1) Colenbrander, IVde deel, 2de stuk, 528; Sémonville to Van der Goes, Oct. 1, 1804.

2) Ibid., IVde deel, 2de stuk, 535; Gogel to Gen. Marmont, Oct. 5, 1804.

3) Colenbrander, IVde deel, 1ste stuk, 116-117; Sém. to Talleyrand, Nov. 2, 1804.

some, the trade was profitable enough to offer them a good round sum in hush money. In 1804 the French commissary at Amsterdam was receiving 80,000 florins a year, payable by the Chamber of Commerce, and the one at Rotterdam perhaps made out even better by demanding five per cent. of the value of the cargo on each false certificate of origin which he sold.[1] Nor were Americans apt to suffer greatly even though British goods were confiscated by such French officials as were not open to corruption. For, the penalty attached to the fraudulent importation of English goods did not affect the vessel but merely the goods, and in nine cases out of ten these goods were probably not American owned, but were paid for by Dutch merchants or by some ultimate consignee in France or Germany. A Yankee captain might sympathize with a good customer whose goods had been seized and confiscated, but he stood ready none the less to bring in another shipload, if so desired. The only loss he was apt to sustain was the expense of paying his crew during the enforced idleness of a few days or weeks while the ship's papers were being examined by Dutch and French officials, and possibly, as a result of this delay, the loss of an opportunity to obtain a suitable return cargo at some other, more distant port.

But the Dutch merchants at once felt the effect of this more rigid enforcement, and, in response to their outcry, the Directory made a last desperate effort to protect the interests of the commercial element, by forbidding Dutch army officers to obey any civil or military authority of France.[2] This unfortunate order was in part inspired by the belief that Sémonville was acting without specific instructions from Napoleon. They were soon to realize their blunder, when Talleyrand, on December 10, transmitted Napoleon's order for a repeal of this measure within forty-eight hours, with a threat that a refusal to do so would be considered as a declaration of war.[3]

This incident undoubtedly hastened the change in government which Napoleon had for some time been contemplating,

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[1] Ibid., IVde deel, 1ste stuk, *Inleiding*, XXXVIII. These statements are based on Fouché's report to Napoleon on Nov. 23, 1804.

[2] R. A., *Staatsbewind*, 544, Nov. 23, 1804.

[3] Colenbrander, IVde deel, 1ste stuk, Talleyrand to Sémonville, Dec. 10, 1804.

and there is sufficient evidence to warrant the statement that his primary, though not his only, reason for desiring the change, was the laxness which the Directory had shown in enforcing the exclusion system. Without entering into the European phase of the subject, it may suffice to say that Napoleon believed he had found in Schimmelpenninck a person who could be trusted to enter more fully into the spirit of his intentions. In April, 1805, he was installed as chief executive, with the title of Grand Pensionary, and was invested with almost royal powers. He not only possessed the right to initiate legislation, but the measures which he proposed must be accepted or rejected *in toto* without change. We may therefore consider him as the main author of the stringent law of May 31, 1805, and may look upon this measure itself as a revelation of Napoleon's real motive in raising him to this position.

This new law[1], which repealed all previous measures, became the basis of all future legislation in regard to exclusion, and forestalled by nearly eighteen months some of the provisions of the Berlin decree. The exportation of materials of war and of all shipbuilding material, which hitherto had been allowed by special consent of the Directory, was now forbidden entirely.[2] Hereafter the special consent of the government was needed for exporting to neutral ports such foodstuffs as butter, cheese, pork and salted meat, together with beans, peas, and grains of all kinds.[3] The amount of the bond was raised to three times the value of the cargo. Nothing was said regarding the exportation of gin and other manufactures. Under this law Dutch merchants and manufacturers obtained a wider market for the sale of their products, and neutral nations no longer had the slightest ground of complaint. With the exception of munitions of war and shipbuilding materials, all the important products of Holland could now be sent to neutral countries; and it will be remembered that the high bond which was exacted, was deposited by the Dutch shipper, not by the neutral carrier.

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1) *Le Moniteur Universel,* June 19, 1805, (An. 13), p. 1113.

2) This provision was not rigidly adhered to. On June 24, 1805, permission was granted to send 2,300 pounds of powder to the U. S.; on July 22, 125,000 pounds were sent; on Sept. 25, 1805, 100 guns, etc.

3) A decree of Dec. 2 forbade the exportation of these articles entirely to places between the Elbe and the Weser.

This concession in regard to exportation was offset by the rigid provisions regarding the importation of English goods and manufactures. We have here for the first time a careful, comprehensive definition of what should be included under the term British goods. Merchandise and manufactures of a similar nature, but not of English origin, could be imported upon the presentation of certificates of origin. These certificates, together with all the ship's papers, were to constitute the evidence for judging whether or not the cargo was of English origin. Before a vessel could enter, these papers must be sealed and sent to the nearest commissary of customs, while the captain and pilot must take an oath that all papers had been delivered. A somewhat similar practice was followed in regard to English mails, and any member of the crew who attempted to conceal an English letter or newspaper was punishable by a fine of 1,000 florins.

Naturally enough, the former complaints as to the delays which such a regulation occasioned now became more frequent. An American captain who returned on August 15, 1805, reported that vessels bound for Amsterdam were detained at the Texel until all their papers "are forwarded by land to the commissaries of the customs, then to be examined by the commissary of the French relations at his pleasure. The consequence is an unwarrantable and scandalous detention of from ten to fourteen days." [1] Many another American captain, no doubt, gave expression to similar opinions, but after he had aired his feelings, he probably remembered only the profits of the last voyage and proceeded to take on another cargo. With tobacco averaging from ten to fifteen cents a pound, sugar from thirty-five to forty cents, coffee from forty to forty-six cents, cotton from thirty to sixty cents, and rice from $9.00 to $10.00 per cask according to quality,[2] the profits of the voyage more than offset the losses resulting from the detention of the vessel, even though the vessel might be detained, as occasionally happened, from four to six weeks.

An analysis of the further provisions of the law of May 31 under the head of exclusion of British goods, indicates that considerable attention had been paid to the problem of fraudulent trade under a neutral flag. English goods which

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1) *Am. Daily Advertiser*, August 15, 1805.

2) Based on price lists in *Am. Daily Ad.* for May 6, 1805, and July 9, 1806.

were smuggled in were to be confiscated as a matter of course, as were those which were introduced by false certificates. But, passing over a number of minor regulations, the real meaning of the law becomes apparent in article four, which provided that if a neutral vessel coming from a British port, but having a neutral destination, was compelled even by stress of weather to enter a Dutch port, that part of the cargo which, according to the ship's papers, was not neutral property, was lawful prize of war. This provision, which was to be enforced so long as England did not adopt the rule that the flag covers the goods, was clearly a step in advance in Napoleon's commercial warfare against England. Henceforth, the doctrine was to be enforced that every article of commerce which could be traced either to British origin or to British ownership was subject to confiscation the moment it entered within the maritime or territorial jurisdiction of Holland. The fact that it was brought in by a neutral, and was destined for a port in Russia or Turkey or the United States no longer sheltered it from capture.

When the news of this May decree reached the United States, the editor of the *American Daily Advertiser* commented that the new *Code of Commerce* "has very naturally produced a considerable sensation among that part of the commercial world interested in Dutch trade." [1] And, on the face of it, the law surely looked forbidding enough, for it offered four possibilities for penalizing an American who brought in English goods, where up to this time he had not been punishable at all. Not only were the goods themselves to be confiscated, but those who had any part in introducing them might now be punished under one of the following counts:

1. For smuggling them in, without making a custom-house declaration.
2. For fraudulent importation in the regular way of trade by means of a false entry at the custom-house.
3. For incidentally touching at an English port and taking in cargo there, while on the way to a Dutch port.
4. For entering a Dutch port out of course, while on the way from an English port to a neutral port.

[1] *Am. Daily Advertiser,* July 22, 1805.

These provisions will bear a little further explanation.

In the first place, any vessel which engaged in the practice of smuggling British goods into Holland, without the formality of passing through the customs, was to be confiscated, while the captain and all others who knowingly took part in the transaction were to be fined 1,000 florins ($400.00). This was the extreme penalty which could now be meted out, and it is clear also from the measures which were prescribed in regard to smuggling across the land frontier, that one of the primary objects of the law was to make this practice unprofitable. Now, the actual smuggling of English goods into Holland was a branch of the trade which Americans had up to this time probably found it entirely unnecessary to resort to. They would now be more content than ever to leave this practice to be carried on by the Dutch themselves, who in addition to their more intimate knowledge of the long and broken coast line, and their use of smaller vessels, also possessed greater facilities for hiding the goods more rapidly.

The American trader, along with other neutrals, was apt to be harder hit by any one of the three remaining penalties which the law prescribed for the introduction of British goods. Instead of smuggling them in, he might attempt to introduce them in the regular way of trade, by resorting to the use of false certificates and by making a false declaration at the custom-house. If the officials succeeded in detecting the fraud, the vessel which had carried the goods was confiscated. This was the second penalty, less severe than the first only because it did not require the payment of a fine.

The third and fourth offenses were punishable by the payment of 1,000 florins, which was payable in each case by the captain of the vessel. It was a common practice for American vessels bound for the continent to stop in at a British port for purposes of trade. Sometimes they were compelled to enter through stress of weather or through lack of provisions. Frequently they were brought in by British cruisers on one pretext or another, and were detained in port while awaiting trial before the prize courts. After May 31, 1805, vessels which had touched at an English port were to give notice of this fact immediately upon their arrival in Holland. All the goods which had been taken on board in England were subject to confiscation, even though they were

destined for a neutral port (though an exception would possibly be made in the case of ship's provisions). If the captain attempted to conceal any part of the cargo which was of British origin he was to be fined 1,000 florins, and, in case of his refusal or inability to pay, his vessel was confiscated.

In the fourth place, any captain, who was on his way from an English port to a neutral port, might be fined for running into a Dutch port, if he could present no adequate excuse for doing so. Suppose an American captain, while on a voyage between London and St. Petersburg, should run into the port of Amsterdam, possibly for the purpose of disposing of part of the cargo. Not only were the British goods on board to be confiscated, but the captain was to forfeit 1,000 florins unless he could furnish proof that absolute necessity had compelled him to enter.

Taking these various provisions as a whole, we can readily understand why a British journal, apparently moved by sympathy for the Dutch people, should consider this measure as "one of the first grand acts" of Schimmelpenninck, who is referred to as "Bonaparte's viceroy in Holland," and should interpret it as an effort "to enforce restrictions upon the trade with England by neutrals, such as must utterly ruin the commercial interests of his country." But when the same journal adds that as a result of this measure the Dutch were "fleeing in multitudes from his government to Louisiana and other wilds of America" [1], we are evidently dealing with a bit of exaggeration which must be accepted with more than one grain of salt, the more so because at the time it was written the measure in question had been in operation less than a month. No contemporary evidence has been found to afford even the slightest support for this statement.[2]

Yet, although there is no evidence of such wholesale emigration, there can be no doubt that the exclusion system as enforced under the Schimmelpenninck régime was beginning to cause distress among the commercial population

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[1] From the *Glasgow Journal,* June 21, 1805, quoted in the *Am. Daily Adv.* for August 17.

[2] The departure of about 1,000 *German* emigrants from Amsterdam for Philadelphia, in May and June, may possibly account for this statement. See *Am. Daily Adv.,* July 10, August 17, and September 21, 1805.

of Holland. This was probably due in the first instance to the greater degree of vigilance exercised in preventing smuggling, and in the second place to the decrease in the amount of English goods brought in by neutrals. There is no evidence that a single American vessel was confiscated under this act, nor has a single complaint been found arising out of the payment of fines; yet the shipping lists for 1805 indicate that only 198 American vessels arrived as against 242 in 1804.[1] The falling off in the number of arrivals probably also accounts for the decrease in the amount of goods imported from the United States. American cotton fell off from 1,475,979 pounds, in 1804, to 881,979 pounds,[2] while rice,[3] tobacco[4] and other articles also showed an appreciable decrease. Coffee, an article for which Holland depended almost exclusively upon the American carrier, showed a decrease of nearly two and a half million pounds, although even with this decrease the amount reëxported from the United States to Holland was twice as large as the amount sent to any other country, and the amount imported in Holland from the United States was six times as large as the total amount received from all other countries.[5] Sugar was the only important article of import which showed an increase, the amount imported from the United States in 1805 being 47,544,197 pounds, a gain of over 20,000,000 pounds since the preceding year.[6] Inasmuch as there was no restriction of any sort on the importation of neutral goods, the amount of English goods introduced by Americans in 1805 would undoubtedly show an even greater decrease, but of this branch of the trade no statistics seem to have been kept.

The exclusion system as enforced in 1805 was therefore for the first time beginning to have an unfavorable effect upon American trade. Americans were either seeking more favorable markets where no such restrictions existed, or were trying out the temper of the new government, and were

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1) These figures have been computed from the shipping lists in the *Am. Daily Adv.*, supplemented by those in the *Aurora.*

2) Pitkin's *Statistical View of the Commerce of the United States*, (1835 edition), 135.

3) Ibid., 122.

4) Ibid., 131-133.

5) Ibid., 161-162; also R. A., *Collectie Goldberg*, vol. 190.

6) Ibid., 157.

meanwhile taking no chances on incurring the penalties of the law. The latter interpretation is probably the more correct, as will be seen by comparing the trade statistics which have just been given with those which are available for 1806. On April 30, 1806, T. H. Backer, the Amsterdam agent for the firm of William Taylor and Sons at Baltimore, reported that the ports of Holland "remain fully open to all neutral vessels," and that the price of tobacco, sugar and coffee was very high, while rice and cotton were in great demand.[1] A month later, just as the new government under King Louis was being ushered in, to take the place of the Batavian Republic, he writes that the price of these articles has somewhat declined, owing to the large supply which had arrived from the United States.[2] "A vast number of American ships have now arrived again," he reports on June 6, "yesterday four arrived and today eleven."[3] And on August 4 he half apologized for the small returns on the last shipments from Baltimore by saying that the numerous arrivals from the United States had so greatly increased the stock on hand as to reduce prices.[4]

During the course of the year 1806, while the law of 1805 was supposedly in full operation, 231 American vessels entered the port of Amsterdam alone,[5] without counting the arrivals at Rotterdam and other ports. Not only had the trade recovered from the temporary loss sustained in 1805, but the total arrivals in 1806 even exceeded the figure reached in 1804. There was a corresponding increase in imports from the United States. Tobacco increased from 17,948 hogsheads in 1804, to 29,953 hogsheads in 1806,[6] whole the amount of rice, cotton and sugar was not only greater than in 1805, but in each instance was more than double the amount imported in 1804.[7]

Two principal reasons may be assigned for this remarkable increase in American trade. In the first place, as Backer notes in one of his letters, the blockade of the Ems,

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1) *Wm. Taylor MSS.*, (Library of Congress, Manuscript Division), Backer to Taylor, June 6, 1806.
2) Ibid., May 31, 1806.
3) Ibid.
4) Ibid.
5) A complete list is given in the *Am. Daily Adv.*, May 8, 1807.
6) Pitkin, *Statistical View*, 131-133.
7) Ibid., 123, 135-137, 157-158.

the Weser and the Elbe by an English fleet had a favorable effect on Dutch markets, by preventing Americans for the time being from trading with the ports of Embden, Bremen and Hamburg.[1] Millions of pounds of American produce, which would otherwise have been sent to these ports, was now disposed of in Holland, there to be stored in warehouses for speculative purposes or to be sent farther into the interior. A second important reason why the American flag was becoming such a familiar sight in the ports of Holland was the change in the Dutch government, which took place in June of this year.

Schimmelpenninck, who understood the real temper of Napoleon and saw through his plans as but few of his own countrymen or contemporaries did, had made a conscientious effort to enforce the Emperor's policies, from a conviction that it was the only means of saving his country from a worse fate. He was well aware, however, that the government, at the head of which he had been placed, was regarded by Napoleon merely as an experiment. In the series of conferences to which Napoleon had summoned him in 1804, in regard to a new constitution, he had boldly argued in favor of an elective President, after the American model, and Napoleon had yielded to this desire only after Schimmelpenninck had positively declared that he would under no circumstances coöperate in making the office of chief executive hereditary.[2] The failing eyesight of the Grand Pensionary now offered Napoleon a ready excuse for introducing another change in the direction of greater centralization and for bestowing the crown of Holland upon his favorite brother Louis. Early in February, 1805, Talleyrand had officially informed Schimmelpenninck of the impending change,[3] and from that time until June the attention of the old government was so largely occupied in bringing about the transition and in reorganizing the finances, that the enforcement of the exclusion law was temporarily relaxed. The people of Holland, who from mingled motives had dreaded the advent of a foreign prince, soon learned that their new sovereign was by no means in accord with the

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1) *Taylor MSS.*, Backer to Taylor, April 30, 1806.
2) General Wüpperman, *Holland Voor Honderd Jaren*, 24.
3) Colenbrander, IVde deel, 1ste stuk 158-159; Talleyrand to Schimmelpenninck, Feb. 6, 1806.

ideas of his Imperial brother on questions of commercial policy.

"Never cease to be a Frenchman," were the words which Napoleon had used in proclaiming Louis king of Holland.[1] But in replying to a deputation from the Legislative body, soon after his arrival at The Hague, Louis stated that he had become a Hollander the moment he had set foot on Dutch soil. "No matter what may happen," he added, "I am certain that I shall always remain a Hollander. . . . Therefore be assured that you can utter no wish for the welfare of your fatherland in which I shall not share, or which I shall not have anticipated." [2] And these words were not mere rhetoric, for he at once set to work to remove the restrictions upon trade by every means in his power. Without actually opening the ports of his kingdom to English vessels, he nevertheless connived at the contraband trade which now flourished anew, and he permitted vessels containing English goods to discharge their cargoes without hindrance.[3]

Such was the situation when Napoleon, on November 21 of this year, promulgated the Berlin decree, which is often erroneously referred to as the initial step in the establishment of the Continental Blockade, but which, needless to say, did not mark the inception of the exclusion system in Holland. In the memoirs of Louis, published in 1820, occurs the statement that the exclusion law already in force in Holland, was even more stringent than the Berlin decree, and that every measure "humainement possible" had been taken to exclude English goods.[4] A comparison of the Berlin decree with the law of May 31, 1805, indicates that the earlier measure was far more detailed and more specific. Evidently Napoleon expected the rulers of the various countries where the Continental System was now in force to adopt supplementary regulations in order to

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[1] Louis Bonaparte, *Documents Historiques et Réflexions sur le Gouvernement de la Hollande,* II., 129-130.

[2] Ibid., II., 155.

[3] Louis' own memoirs as well as the writings of Dirk Van Hogendorp, Verhuell, Falck and other contemporaries leave no doubt as to the correctness of this statement. It is so generally recognized by Wickers, Jorissen and Wüpperman, the Dutch historians of this period, as well as by Rose, Sorel and other writers on the Cont. system, that further proof seems unnecessary.

[4] Louis Bonaparte, *Documents Historiques,* I., 270-271.

make the decree effective. There are only two provisions of the Berlin decree which contained additional features on the subject of exclusion.[1] In the future no vessel was to be admitted which came directly from England or from an English colony, or which had touched at an English port since the publication of the decree. Article eight increased the penalty for making a false declaration; not only was the vessel itself to be confiscated, but the entire cargo suffered the same fate, even though all the goods were neutral property.

In transmitting this decree to the French ambassador at The Hague, Talleyrand added the significant statement, "since no power in Europe is more directly interested than Holland in the execution of the measures decreed by His Imperial Majesty, you will no doubt find the Dutch government impressed with the necessity of lending every assistance in its power." [2] Before publishing the decree, Louis requested the opinion of his foreign secretary, and received the rather vague advice to comply with Napoleon's intention "in so far as would be possible." [3] On the same day, December 1, he ordered the Berlin decree to be executed to its full extent in East Friesland, Oldenbourg and other possessions formerly belonging to Prussia, but which were then occupied by Dutch troops. Within the kingdom itself the decree was to be executed only "in so far as the measures already adopted shall not be sufficient to effect the general blockade of the enemy's country." [4] In other words, it was his intention to leave the law of 1805 unchanged and to consider the Berlin decree a dead letter.

On December 3 Napoleon ordered Louis to issue the necessary instructions to the customs officers and to lend them the support of the army in the enforcement of the decree. "This is the only means of striking a blow at England," he averred, "and of compelling her to sue for peace. Without doubt this will cause some harm to Holland and to France, but a brief period of suffering is necessary to insure an ad-

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1) The decree may be found in the *Corresp. de Nap.*, XIII., 555-557.

2) Colenbrander, Vde deel, 1ste stuk, 3-4; Talleyrand to Dupont-Chaumont, Nov. 23, 1806.

3) Ibid., 268; Van der Goes to Louis, Dec. 1, 1806.

4) R. A., *Staats Secretarie, Origineele Koninklijke Decreten en Besluiten*, deel 89, No. 23.

vantageous peace." [1] In another letter on the same day he held out the threat that "in the general treaty for the partitionment of continental states," upon the establishment of peace, "I shall deal with Holland according as she has served me." [2]

Louis now apparently became convinced that further action was necessary, and on December 15 he issued a supplementary decree for the entire kingdom, which provided, in the main, that until further orders no vessel should leave the ports of Holland without a special authorization, signed by the King himself, and only after a sufficient guarantee had been given that the cargo would not be sent to an enemy port. All incoming vessels were to be seized at once, and could be released only upon receiving special authorization from the king. Fishing vessels were not allowed to depart unless the master took an oath that no voluntary communication would be held with any vessel whatsoever.[3]

On January 13, 1807, while Napoleon was in the midst of his campaign against Russia, he found time to write to Louis that all the news from London indicated that trade with England was being carried on as before the decree.[4] And on February 25 he wrote in even more positive language, "I am told that the trade between England and Holland has never been more active than since the decree of blockade, and communications with England [never] more rapid and numerous." [5] Louis replied by saying that he had put a stop to all direct communication with England, except by means of a single vessel, but that it was impossible to prevent a certain amount of intercourse by Americans, or by way of neutral countries.[6] For nearly a half year after this reply was written, the subject of enforcement was dropped entirely in the correspondence between Napoleon and Louis. When Napoleon again recurred to the subject, about a month after the treaty of Tilsit, he had practically become master of Europe and had compelled all but a few states to adopt the Continental System.

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1) Rocquain, *Napoleon Ier et le Roi Louis*, 79.
2) Rocquain, 80.
3) R. A., *Staats Secretarie, Orig. Koninklijke Decreten en Besluiten*, deel 90, No. 2.
4) Rocquain, 91.
5) Ibid., 93-94.
6) Ibid., 94-95.

Meanwhile the decree of December 15, 1806, had placed American commerce with Holland in a rather doubtful situation. It now depended entirely upon the pleasure of King Louis whether American vessels would be admitted in Dutch ports, while those which were already in port when the decree was issued could not depart without the king's special authorization. Three days after the decree was issued, consul Bourne felt called upon to issue a protest against the provision which required from all outgoing vessels a guarantee that the cargo would not be discharged at an enemy port. "My duty as representative of the United States of America," he writes, "forbids me from maintaining silence in regard to this article, which wounds the dignity of my country, is contrary to its neutral rights, and contradicts the stipulations of the treaty existing between the two countries." [1] No reply appears to have been received to this protest, but on January 8 of the following year a firm at Rotterdam requests a mercantile house at Boston to have the following letter published in American newspapers:

"We wrote you that several American vessels had been arrested by their having touched in England. This had naturally created a doubt whether American vessels that had touched in British ports would be admitted in our ports; and therefore an explanation had been asked from the king's minister at The Hague, who had answered that American vessels under such circumstances would be admitted as heretofore, provided their papers are in order and they have not taken on board anything in England—and whatever letters should be put on board, must immediately on arrival be delivered to the commissary of marine, all the ship's papers and documents must be produced . . . . and none to be concealed, or otherwise it might give a suspicion as if the voyage was illegal." [2]

A private letter from Holland, received at New York in March, is equally clear as to the policy which Louis intended to pursue regarding American vessels.

"The late royal non-intercourse law with England had given rise to serious doubts whether or not vessels coming from America, but having touched at England, would be ad-

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[1] R. A., *Buitenl. Zaken, Amerika,* deel 359; Bourne to Van der Goes, Dec. 18, 1806.

[2] T. & A. Cramer, in *Am. Daily Adv.,* March 24, 1807.

mitted in our ports. Now we have received the assurance . . . . that ships coming from your country, and which either for orders, or on account of stress of weather, or for want of water, have been compelled to run into an English port, will be admitted as heretofore, provided that by their papers it appears that they have neither landed or taken, in England, any part of their cargo, and the required certificates of the Dutch and French consuls must not be forgot." [1]

Under the Berlin decree such vessels should have been refused admission to Dutch ports, but Louis preferred to incur the displeasure of Napoleon rather than see his subjects suffer any inconvenience.

Early in March Backer reported from Amsterdam that "all vessels which were detained [for] some time under a sort of silent embargo, by the king's not granting his signature for their departure, have now received leave to sail," and that many of them were hurrying off to other markets.[2] At the end of the month he writes that Dutch ports "remain fully open to neutral vessels, even those which have touched in England, and it seems that our government is more and more inclined to favor trade and commerce." [3] The volumes containing the secret royal decrees indicate that many vessels, whose outward cargoes consisted very largely of Dutch foodstuffs, were allowed to depart without furnishing a guarantee of any sort, and that Dutch shippers were not even required to deposit the customary bond, as a precaution that their wares should not be sent to England. On March 5 Louis signed permits for 16 vessels, ostensibly destined for neutral ports,[4] and before the end of the month more than 50 vessels had received the king's authorization to depart.[5]

By that time the task of signing permits was evidently becoming burdensome to Louis, for on March 31 we find the following secret decision recorded in his own handwriting:

"By way of alteration in the first article of our decree of the 15th of December, 1806, we authorize our minister of

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1) Jan. 12, 1807. Ibid., March 14, 1807.
2) *Taylor MSS.*, Backer to Taylor, March 2, 1807.
3) Ibid., Backer to Taylor, March 28, 1807.
4) R. A., *Staats Secretarie, Secrete Koninklijke Besluiten en Stukken*, deel 359, Letter "E."
5) R. A., S. S., Ibid., 359, Letter "L", "M", et seq.

finance to sign with his own hand the authorizations for the discharge or departure of vessels entering or leaving the kingdom.

"Our minister of finance need render us no report of the requests which come in under the head of the aforesaid article. He shall (always, however, in our name) sign the requested authorizations, whenever he considers himself acting in accordance with our will, which must be known to him from the dispositions we have made of the several requests on this subject which he has submitted to us."[1] The minister of war and marine was to instruct his subordinates to respect the validity of these signatures.

The manner in which this official discharged his duty is shown in several interesting letters which he sent to Louis while the latter was on a trip to France. On July 24, 1807, he writes that there had thus far been no occasion to question any American vessel which had entered. "Experience has given me a correct knowledge of the signatures and of the [official] seals," he boldly asserts, "and I have always found them *en regle.*" Recently, however, there arrived from New York four vessels laden with sugar, consigned to two houses at Amsterdam. He was convinced that in this case the certificates and seals were counterfeit, and was now in a quandary as to what to do with the vessels.

"I cannot prove that these vessels did not come from New York," he writes. "To prove that the papers are false, I would have to send them to America, in order to have them presented to the proper authorities and to demand the necessary certificates; the journey is long and uncertain, and if the vessel to which these papers are confided should be captured, I would never be able to establish proof." To institute legal proceedings under such circumstances had its difficulties, although the parties interested feared that this step would be taken. "The houses which are concerned," he explains, "have reputations to lose. It is not very laudable to resort to false certificates, so that both houses have protested that they had no direct interest in the cargo. M. Willink has even begged me to make no further efforts to establish proof, roundly avowing that these vessels came from an enemy country."

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[1] R. A., S. S., Ibid., 359, Letter "Z."

The two business houses to whom the cargoes were consigned were among the very largest in Holland, and members of these firms were connected with important banking establishments at Amsterdam and London. Recently they had advanced large loans to the Dutch government, and by reason of this fact, writes the secretary of finance, the public had more than once uttered the reproach that these houses had obtained a license for the sale of English goods. For this reason alone the case of these four vessels was one of great delicacy. Something would have to be done to satisfy public opinion, lest the impression prevail that these houses had been promised immunity from the penalties of the law. As a means out of the difficulty, he suggests that these firms should be called upon to forfeit 100,000 florins, which would roughly correspond to the value of vessels and cargoes, and he requests the secret authorization of the king for this purpose.[1] Louis merely returned the letter with the marginal comment: "Ajourner la décision jusqu' à mon retour." [2]

The difficulty of guarding against the introduction of British goods, and of establishing satisfactory evidence, is brought out more clearly in his letter of August 19. He here makes an elaborate attempt to defend himself against the indirect charge of neglect of duty which Napoleon preferred against him, when he threatened to enforce the system in Holland by means of French troops, unless intercourse with England should cease.[3]

"I have never for a single day," he explains, "entrusted to anyone but myself the task of examining the papers of incoming vessels. It has often pained me to note how neglectful the authorities of neutral countries were of their duties, being morally persuaded that the affirmations given under their signatures did not conform to the truth. I have tried to impress these authorities with the risks they are running of ultimately having complaints on this matter presented to their government, and it appeared to me that these hints on my part have not entirely been without effect. But then another evil practice arose, a horrible evil, which ought

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[1] Colenbrander, Vde deel, 1ste stuk, 306; Gogel to Louis, July 24, 1807.

[2] Ibid., Vde deel, 1ste stuk, Inleiding, XXXVIII.

[3] *Correspondance de Napoleon*, XV., No. 13022. Napoleon to Champagny, August 12, 1807.

not to be tolerated in spite of all the enmity among nations; namely, the practice of manufacturing false papers, in which the printing, the hand-writing, the signatures, the stamps, the seals and what not, are counterfeited down to the minutest detail, which tend to deceive even those whose papers are falsified.

"The first cases of this kind upon which my attention was fixed were those of the four American vessels, which entered under papers from New York, but in reality came from Liverpool. The vessels and cargoes are now under arrest. Since that time no false papers from that country have been presented to me." As an evidence of his good intentions he encloses a list of 18 vessels which were held under sequester, some of them since the first of May,[1] but he confesses that all precautionary measures were useless so long as no guarantee existed against falsifications.[2]

When Napoleon, a few days later, repeated his accusations against Holland, and threatened to send in 30,000 men to close Dutch ports,[3] Gogel was led to declare that he knew of but one additional means of preventing communication with England; "namely, to forbid all navigation whatsoever to and from this kingdom." "I repeat," he says, "if you wish to be sure that nothing can enter which has ever been in England, there is no other means but to forbid all importation whatsoever." "And this will hardly be necessary," he adds, "when there no longer are any neutral nations, as to all appearances will soon be the case." Moreover, to put a stop to commerce with neutrals would merely be rendering a service to England, and he points out how this commerce had given a means of existence to thousands of the king's subjects, and had thus far kept the Dutch and

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1) R. A., *Staats Secretarie, Koninklijke Besluiten,* 100. The list was enclosed in the packet containing the royal decree of August 28, and was accompanied by the following note. Note de bâtimens et effets contre lequel s' enstruisent des procedures ou se trouvent sous embargo comme suspects, et dont les cargaisons sont en depot dans les magazins royaux pendant que l' on fait des perquisitions s' ils viennent de l' Angleterre, le tout depuis le premier de Mai, 1807, jusqu' à la date de la presente.

La Haye, ce 19 Aout, 1807.

2) Colenbrander, Vde deel, 1ste stuk, 308. Gogel to Louis, August 19, 1807.

3) *Correspondance de Napoleon,* XV., No. 13051, Napoleon to Champagny, August 19, 1807.

French navies supplied with pitch, tar, hemp, iron, copper, timber and other necessaries.[1]

These letters, which testify to the difficulty of administering the Continental System, also point to a new activity on the part of Napoleon. The last two were called forth by the Emperor's criticism on the laxity with which the system was enforced in Holland. For the space of nearly six months the correspondence of Napoleon had been silent in regard to enforcement in Holland, but immediately after his return from Tilsit this subject again drew his attention. The terrible battle of Friedland, in which Napoleon overwhelmed the Russians, was followed by the treaty of Tilsit, in which the Czar agreed to enter into an offensive and defensive alliance with Napoleon, against England. This meant that Russian markets were henceforth to be closed against English goods; it also meant that Napoleon for the time being had no enemy on the continent, and that he was free to devote his energies to a more rigid enforcement of the Continental System in France, in Holland, and in other vassal states of the empire.

When the news of the treaty of Tilsit reached Louis in southern France, he was about to set out on his return journey to Holland. Before he reached Paris, he was informed by special courier that Napoleon had threatened to guard Dutch ports by means of French troops. This induced him to seek an interview with his Imperial brother, which took place on August 27. Röell, the Dutch minister of foreign affairs, who was with Louis at the time, reports that on the morning following this stormy interview the king ordered him to draw up a new decree, containing every possible measure for preventing communication with England, even though no other means remained than the entire closure of Dutch ports. Röell finally succeeded in convincing the king that the entire closure of the ports would spell ruin to Holland, and Champagny also assured Louis that so radical a measure went beyond the intentions of Napoleon. It was therefore agreed to drop this provision.[2]

The decree of August 28, 1807,[3] provided that the ves-

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[1] Colenbrander, Vde deel, 1ste stuk, 331, Gogel to Louis, August 24, 1807.

[2] Colenbrander, Vde deel, 2de stuk, 646 et seq.

[3] R. A., *Staats Secretarie, Orig. Kon. Decreten en Besluiten*, 100, No. 1.

sels which had already been seized should be judged before the proper tribunals with the greatest severity. This applied to some 22 vessels, including the four which had ostensibly come from New York. The rest of the decree gives evidence that it had been drawn in haste. In the future a double bond—presumably double the value of the cargo, although this was not specifically stated—was required of all incoming vessels. This bond was to be forfeited if the vessel contained any English goods or had touched at an English port, whereupon the vessel itself must immediately leave port.

The minister of finance called Louis' attention to the fact that in one respect the new decree was less severe than the law of May 31, 1805.[1] Under the new law the vessel suffered no penalty whatsoever for the fraudulent introduction of English goods; under the former law such vessel might be confiscated. The reply which Louis gave would lead to the conclusion that he had either not read his late decree very attentively or that he was casting about for means of evading it. "The intention of said decree," he explains, "is not that vessels which have touched at an English port without making a declaration to that effect, or which have declared the contrary, shall be confiscated; that would be contrary to the article of the decree which speaks of sending the cargoes of the kingdom when English goods are found on board, which could not be done without sending out the vessel." The decree, however, states in unequivocal terms that such English goods should be confiscated. But, he adds, "it is entirely in conformity with the spirit of the decree that a double bond shall be exacted for the value of the vessel as well as for the value of the cargo." [2]

In response to the demand of Napoleon, who insisted that vessels which had touched at an English port should be confiscated,[3] instead of being allowed to depart, Louis was constrained to issue the following explanatory decree on September 16:

> "All vessels, without distinction, entering the ports of our kingdom, and whose cargo shall consist

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[1] Colenbrander, Vde deel, 1ste stuk, 333; Gogel to Louis, September 4, 1807.

[2] Ibid., Vde deel, 1ste stuk, 389. Louis to Gogel, September 8, 1807.

[3] Rocquain, 124, Napoleon to Louis, September 14, 1807.

> in whole or in part of English merchandise, or which came from an enemy port, shall be confiscated, as well as the entire cargo." [1]

It will be noted that this short decree was more than an explanation of the previous measure. It contained two additional penalties: the confiscation of the vessel, and the confiscation of the entire cargo, *neutral* goods as well as English goods. The first penalty had already been foreshadowed in the Schimmelpenninck law of 1805. The second penalty had been prescribed in the Berlin decree, but it now for the first time became a municipal regulation in Holland. Henceforth any captain who merely touched at an English port on his way to a Dutch port, was to suffer the extreme penalty of losing not only his ship, but also the entire cargo.

Three other measures, all having the same object in view, were put in force in October and November, but inasmuch as they contained no new features affecting neutral commerce, they may be passed over with this brief reference. This series of decrees marks the beginning of a new stage in the enforcement of the Continental System in Holland. There were still occasional attempts at evasion, but in the main the laws were more relentlessly enforced, and they were brought to bear with increasing severity against neutrals. And by this time the term *neutral* had almost become synonymous for *American*, for the United States was the only important neutral country outside of the Continental System. That the system really became effective is shown by the satisfaction which Napoleon expressed on November 25 at the method of enforcement in Holland.[2] No expression of this kind is to be found in all the previous correspondence of Napoleon since 1803.

The situation of American commerce with Holland now became very critical. Consul Bourne became sufficiently alarmed to address a circular letter to the captains of American vessels in the ports of Holland, in which he advised them to return home as soon as possible.[3] In another circular to the business houses at Amsterdam and Rotterdam he writes,

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[1] R. A., *Staats Secretarie, Orig. Kon. Decreten*, 100, No. 5.
[2] Rocquain, 145.
[3] On Oct. 16, 1807, referred to in *Le Moniteur Universel*, Oct. 25; and in *Am. Daily Adv.*, Dec. 18.

"I have to request that you would hasten the departure of any American vessel which may be to your address with all expedition." [1]

A prominent citizen of Holland, well acquainted with the movements of trade, reported to Louis on November 23 that nearly all trade at the port of Amsterdam was at a standstill. Not a single vessel was taking on cargo, and, except for a few Americans, not a single vessel entered. The only branch of trade which still showed any signs of life was the trade in raw sugar, which he ascribed to the welcome which was still accorded to American vessels.[2]

There is a difference also in the tone of the reports which Backer sent to his American correspondent during the last four months of this year as compared with those of the earlier months. During the first eight months his reports are optimistic in character, and they indicate that American trade continued to flourish in spite of the Berlin decree. During September a change is noticeable; all his letters after the middle of this month dwell upon the trade restrictions and upon the high prices of American and colonial goods. On September 29 he notes that the price of tobacco, sugar, coffee, cotton and rice had gone considerably higher, which he ascribed to rumors of a war between the United States and England.[3] On November 16 he urged Taylor to continue his shipments, and expressed the belief that there would soon be a decline in the high prices which then prevailed.[4] On January 4 of the following year, he writes that if a shipment of American tobacco could be sent to Amsterdam in safety, "you would make an enormous profit on the cargo, but, as I mentioned before, I find the present times too critical to undertake any business or to make any shipments." [5]

As a result of these restrictive measures many an American vessel destined for Holland was compelled to seek another market. By the middle of November, if the reports which Backer received were correct, a number of American vessels which had begun loading for Amsterdam were dis-

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1) *Am. Daily Adv.*, Dec. 10.
2) Colenbrander, Vde deel, 1ste stuk, 347. Valckenaer to Louis, Nov. 23, 1807.
3) *Taylor MSS.*, Backer to Taylor.
4) Ibid.
5) *Taylor MSS.*, Backer to Taylor, January 4, 1808.

charging their cargoes.[1] Yet, in spite of the trade depression during the last four months, the year 1807 was another prosperous year for the American trader. The number of arrivals from the United States nearly equalled the high figure reached in 1806, while the amount of coffee, cotton and rice imported by Americans was larger than in any previous year since 1803.[2] It was not until the following year that American trade with Holland was seriously affected by the commercial warfare which characterized this period.

Before setting forth the causes which led to a rapid decline of our trade during the next six years, it will be of service to assemble the rather fragmentary statistics which have thus far been presented, and to make a few generalizations in regard to the position of American trade with Holland during these prosperous years.

Between the first of June, 1803, and the last of December, 1807, 1,100 vessels flying the American flag entered the ports of Holland, while during the same period 448, or two-fifths of the total number, returned to the United States. Only two out of every five, or 40% of the total, were therefore engaged in the direct trade between the two countries, while 60% appear to have been engaged in the carrying trade of Holland. Many a vessel no doubt failed to return to the United States because it had been condemned before the prize courts of one of the belligerents, while some allowance must also be made for the incompleteness of shipping lists, and for the very common practice of running into one or more foreign ports on the way to a home port. If statistics were available as to the number of vessels sailing under the American colors, but in reality owned by Dutch, French or even English subjects, the number of *bona fide* American vessels engaged in the carrying trade of Holland might dwindle down to 50% or less.

In spite of these allowances the important fact remains that a large percentage of the carrying trade of Holland was conducted by Americans. The shipping lists do not, it is true, indicate a progressive increase in the number of ar-

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1) Ibid., Jan. 16, 1808.

2) Pitkin, *Statistical View*, 135, 122. Pitkin's statistics show a decline in the amount of coffee exported from the United States to Holland. I have followed the figures given by Goldberg who lists the total amount imported by Americans.

rivals, for, as has been pointed out, there was a decline in 1805, and again in 1807 the figures were lower than for the preceding year. Nevertheless, as a general statement, it may be said that there was a steady growth in our trade with Holland during these years. In 1807, the year when the Berlin decree was in force, the number of arrivals was nearly twice as large as in 1803, and the volume of our trade with Holland was correspondingly larger. The steady growth of our trade during these years was, of course, due to causes arising out of the European wars. But, that there existed a merchant marine which was American built, American owned, manned very largely by American seamen, and commanded by shrewd American captains who knew how to profit by the unusual opportunities which the war offered, was due to the fact that most of the states then faced the ocean, and to the encouragement which the government gave to every form of maritime pursuit.

It is interesting to note that after the lapse of a century this trade, which once constituted a profitable source of income to a considerable portion of our seaboard population, is now carried on almost exclusively under a foreign flag. A United States treasury officer reported in 1900 that not a single American merchant vessel had been employed in the trade between this country and the Netherlands. "The American flag," he states, "was never before such a rarity on the North Atlantic between the United States and Europe." [1]

During the course of the war, Holland managed for a time to retain the position which she had long held as one of the most important distributing centers of the commercial world, where the productions and manufactures of nearly every country could be bought or sold. These goods were now brought in almost entirely by neutral carriers, and among them Americans easily occupied the foremost position. A committee for the province of Holland, which had been appointed by Louis for the purpose of inquiring into the state of commerce and manufactures, reported in December, 1806, that Americans and a few other neutrals then held the same important position, in regard to the trade which passed through the port of Amsterdam, which the vessels owned in

[1] Quoted in Bates, *American Navigation*, (Boston, 1902), p. 2.

that city had occupied previous to the war, in conducting the trade of entire Europe. "The East India and China trade," the report states, "would be lost entirely if it had to be carried on by vessels of our country." [1]

The statistics thus far quoted, in regard to the amount of goods imported into Holland by Americans, have been taken in part from Pitkin's *Statistical View of the Commerce of the United States,* a work which is still of value for the early years of American history, when statistics were not as yet well kept. This has been supplemented by the manuscript collections of Goldberg, who held office under the Batavian Republic as well as under Louis, and who, like Pitkin, evidently made a hobby of trade statistics. Goldberg's statistics, which, in part, at least appear to have been compiled for official purposes, constitute a far more valuable source. From Pitkin we obtain only the principal articles of export from the United States, while Goldberg apparently listed every pound or every florin's worth of goods brought in by Americans, not only from the United States, but from all other ports of the world, even though the amount were only 180 pounds of cochenille or six boxes of wax candles. He seems to have been an interested observer of the growth of American carrying trade, for during the years 1805 to 1809 he took pains to construct separate balance sheets, showing in one column the amount of goods brought in by Americans, and comparing this, in a parallel column, with the amount brought in by all other vessels, or with the total amount imported.

These statistics indicate that in 1805 fully 97% of the pepper and other spices received in Holland was carried in by American ships. The next year this high figure declined to 32%, and in 1807 it rose slightly to 42% of the total. Cocoa rose from 35,290 pounds, or 8% of the total in 1805, to 50% and 52%, respectively, in the next two years. Our carrying trade was increased also by reason of the vast quantitites of coffee and sugar with which Americans supplied the Dutch market. The amount of coffee exported from the United States to Holland increased from 2,323,902 pounds in 1803, to 26,082,432 pounds in 1804, which was three times as large as the shipments to any other country.

[1] Colenbrander, Vde deel, 2de stuk, 606 et seq. Dec. 11, 1806.

In 1805 Americans were importing 80% of the total, and 83% in 1806. The amount of sugar imported in American bottoms averaged 82% of the total during the years 1805 to 1807. Indigo, ivory, drugs, teas and nankeens from China, timber from Northern Europe, and dyewoods and other costly woods from tropical countries were among the other articles of commerce which Americans disposed of in Holland. If the amount of these goods was relatively smaller, their great variety helped to swell the volume of our carrying trade.

Dutch markets also offered unusual opportunities during these years for the sale of the domestic products of the United States. The cotton planters of the south, and the tobacco and rice growers, found one of their best customers in Holland. Holland was surpassed only by England and France as a market for American cotton. Her annual supply of rice was obtained very largely from the United States. During the years 1803 to 1805, and again in 1807, England was the only country which annually received larger supplies of American tobacco than were sent to Holland; in 1806 Holland headed the list. So many hogsheads were sent over in that year, that, during the next 34 years, the figure reached in 1806 was only once surpassed, namely in 1823. During the period from 1808 to 1840, there were only four years when the amount of rice which had been exported to Holland in 1807 was exceeded,—and this in spite of the increased acreage which Southern States devoted to its production. Besides these staple products of the South, Holland annually received from the United States large quantities of potash, staves, whale-oil, hides, and other more bulky articles of commerce.

It is only natural that the prosperity which the American trader enjoyed should occasionally excite the envy of the Dutch, the more so when we remember that the balance of trade was always in favor of the United States, and that many a cargo brought in by Americans was paid for in hard cash. "The commerce of Holland with the United States," says a Dutch writer in 1806, "on which the city of Amsterdam had built such lofty expectations at the commencement of the Revolution, instead of being any advantage has become a distinct source of loss, the United States having found means of importing everything into Europe, and of

exporting as little as possible in the way of articles of manufacture and luxury." He estimated that the direct imports from the United States amounted to 2,000,000 florins a year, while the exports to the United States were scarcely 1,000,000 florins.[1]

A silk manufacturer at Haarlem, in an elaborate memorial on the manufactures of Holland, dated August 23, 1807, made the statement that during the American Revolution this country had "used only the manufactures and productions of France and Holland, thus raising the hope that in time these two countries would be compensated for the considerable efforts and real sacrifices they had made" in aiding the establishment of American indenpendence. But as soon as peace had been established, he asserts, the United States showed *la plus noire ingratitude,* by discarding Dutch and French manufactures, "and by making use almost exclusively of those of Great Britain, while, through the ever-increasing prosperity of the United States, they have become an infinitely larger and richer market for English goods than they ever were during the entire colonial period." Yet, he admits that the silk and thread manufactures of Holland still found a profitable market in this country, and he suggests that this market might be extended by adopting the same method which England had found useful in extending her sales, that is, of having the Dutch consuls at Boston, New York, Philadelphia, and other ports report once or twice a year on the state of the markets.[2]

The list of exports from Holland in 1807 indicates that silk and cotton manufactures of various kinds, as well as linen, were among the most important and most valuable articles sent to the United States. During the same year the United States received only one per cent. of the total amount of white-lead exported from Holland, about two per cent. of the total amount of flax, and ten per cent. of the iron goods, mostly in the form of nails. The list also included a great variety of other articles, but in each case the amount or the money value was very small.[3]

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[1] Colenbrander, Vde deel, 1ste stuk, 246 ff., (quotation found on page 261) in a document on "Du Commerce des Hollandais," Sept. 22, 1806, writer unknown.

[2] Colenbrander, Vde deel, 1ste stuk, 311 et seq.

[3] R. A., *Collectie Goldberg,* 190.

The cargo which the *Lovely Nan* obtained at Amsterdam, in July, 1806, will serve to illustrate the nature and variety of the goods which Americans obtained in Holland. The liquid part of the cargo consisted of 10 pipes of gin, 50 pipes of beer, 34 boxes of claret and some mineral water. In the same vessel were stowed a box of books, 10 hogsheads of madder, 25 boxes of tobacco pipes, 25 pairs of millstones, 7 boxes of German peddlar's ware, 1,158 bars of iron, a quantity of hardware, mirrors, silk handkerchiefs, coffee mills and a few other miscellanies. The millstones were obtained from Cologne, the peddlar's ware was indicated as German, while the iron, the hardware, the looking glasses and coffee mills, as well as the claret and mineral waters were in all probability first imported into Holland from some adjacent European country, before being reexported to the United States.[1] The fact that the outward cargoes of American vessels was apt to consist in part of goods which were not of the growth or manufacture of Holland, may account for the large balance of trade in favor of the United States, and will help to explain the jealousy which the commercial prosperity of the American nation aroused in Holland.

[1] From a copy of the ship's manifest among the *Bourne papers.*

CHAPTER III.

A Period of Experimentation and Uncertainty. (1808—1809.)

The last two months of the year 1807 saw the adaption of three measures of far-reaching importance, all three growing out of the commercial and economic warfare which characterized this period. So far as legislation could effect the desired object, these measures practically brought the contest to a climax. Only one of them became embodied in the municipal regulations of Holland, but all three had a pronounced effect on our commercial relations with that country. The first of these measures, the British Orders in Council of November 11, led directly to the adoption of the second and third.

The Orders of November 11 may be taken as the culmination of the navigation policy which Great Britain had steadfastly adhered to since the adoption of the famous rule of the war of 1756. As the contest with France lengthened, British Orders had multiplied to keep pace with French decrees, and the rule of 1756 had been given an ever wider interpretation. The immediate occasion for these last orders was the more rigid enforcement of the Berlin Decree after the treaty of Tilsit, together with the design of Napoleon to impose the Continental System on Portugal and Denmark. Of all the Orders in Council which Great Britain had adopted in regard to trade with her enemies, these were the most severe and the most unfair.

Every neutral vessel was declared to be a lawful prize, if the captain or owner had shown his acquiescence in the Berlin Decree by accepting from a French consul a certificate of origin, or a declaration of any kind, stating that the goods on board were not English property or of English origin. All trade with the ports of France and her allies, or of any

country at war with England, was forbidden, "as if the same were actually blockaded by his majesty's naval forces, in the most strict and vigorous manner." A concession was, however, made in favor of neutrals, for, as the Orders state, his majesty was "desirous not to subject neutrals to any greater inconvenience than is absolutely inseparable from the carrying into effect" of this policy. Trade with enemy ports was, therefore, to be permitted to neutrals, "under such regulations as his majesty may think fit to prescribe." The substance of these regulations was that all neutral commerce with the enemies of England must pass through a British port, and that the voyage from such British port to an enemy port could be undertaken only after the neutral had purchased a British license and had paid certain import duties to the British government.[1)]

Retaliation for the enforcement of the Berlin Decree was the alleged motive which led to the adoption of these Orders. However, this particular form of retaliation was fully as injurious to neutrals as to the enemy. And the framers of the Orders were well aware of this fact; they knew that under the Berlin Decree every vessel which touched at an English port would be confiscated. Retaliation was, therefore, not the sole aim of these Orders; perhaps an equally strong motive for their adaption was the desire to increase the trade of England and to decrease the trade of neutrals. And although the Orders were general in form and applied to all neutrals, it was no secret at the time that they were intended in particular to throttle the colonial trade with the continent which was carried on in American ships.

Scarcely had the news reached American shipping circles that the Berlin Decree was to be enforced, when rumors began to arrive that England was planning new indignities against American trade. On December 17, President Jefferson called his cabinet together in special session to consider the situation. Though no official notice of the adoption of the Orders had yet reached him, he was in possession of London newspapers of the 12th of November, which predicted their immediate publication. Basing his action on this information, as well as on the definite knowledge that the Berlin Decree would no longer be considered a dead letter

1) *Annual Register*, 1807, p. 746.

as regards American vessels, Jefferson now proposed that an embargo be laid on all shipping in American harbors. All the cabinet members concurred in this view, and on the following day an embargo message was sent to Congress.[1] Four days later, on December 22, Jefferson signed the embargo act which forbade all intercourse with foreign nations.[2]

On the same day on which Jefferson proposed to lay an embargo, Napoleon had promulgated the Milan decree, as a retaliation against the British Orders in Council. This decree declared, in substance, that every vessel which stopped at an English port, or which submitted to visitation or search by an English man-of-war, thereby became denationalized and should be treated as English property. All such vessels were to be regarded as good prize in the ports of France and her allies, or wherever they might be captured by the privateers or war vessels of these countries.[3]

The publication of the Milan decree in Holland, on January 8, by no means satisfied Napoleon that his royal brother also intended to carry this measure into effect. On the contrary, he declared to Brantsen, who was about to leave his post as Dutch ambassador at Paris, that his late decree against England was neglected in Holland, and that trade with England was again reviving under the so-called neutral flags. He is quoted as saying that Holland was betraying France, and that to all appearances a brother of the English king was ruling there.[4] The new Dutch ambassador, Verhuell, received orders from Napoleon to send a special courier, to inform Louis of the Emperor's discontent. In a private letter to the Dutch minister of foreign affairs, Verhuell explained that the matter was of the most delicate nature. "God grant," he writes, "that our worthy king may realize that all this corruption and this bungling with our trade must cease . . . . And let us, high officials of the realm, beg the king, if need be upon our knees, to conform to the Emperor's intentions. The Emperor demands, with justice, that we should follow no other system than that of France."[5]

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1) Henry Adams, *Hist. of U. S.*, IV., 166 et seq.
2) *United States Statutes at Large*, II., 451.
3) *Corresp. de Nap.*, XVI., 192.
4) Colenbrander, Vde deel, 2de stuk, 391. Brantsen to Louis, Jan. 17, 1808.
5) Ibid., Vde deel, 2de stuk, 666; Verhuell to Röell, Jan. 17, 1808.

In reply to these new protests Louis complained bitterly against what he termed his slanderers and calumniators, and demanded that the Emperor do him full justice. "What are your Majesty's orders," he asks, "what would you have me do? To close the ports? I *shall* close them; but is it just to crush this unfortunate country? *Must* I leave it? I willingly consent to this, provided I do not leave behind me the reproach of being a traitor." [1] Two days later, on January 23, 1808, appeared Louis' order for closing the ports of his Kingdom entirely to all vessels, whatever might be their nationality, the only exception being that armed vessels of allied nations could enter and depart as usual with their prizes.[2] On January 26, Napoleon, for the second time since 1803, expressed his satisfaction, and complimented Louis on his good intentions.[3]

By this order of January 23, 1808, American commerce with Holland was placed under a double embargo. On the one hand, the act of December 22, 1807, which instituted the long embargo in the United States, forbade any clearances for a foreign port. On the other hand, should any vessels succeed in escaping from an American port and in crossing the Atlantic in safety, they were confronted with a municipal regulation of Holland, which forbade their admission into Dutch ports. This regulation applied also to the hundreds of American vessels which were in the various ports of Europe or in the far-away East Indies and China at the time the Dutch embargo was declared. All trade with Holland was placed under an interdict. Not only were American vessels forbidden to enter Dutch ports, but, what was worse, those which were in port on January 23 were refused permission to depart. And it was upon these vessels and their crews that the embargo in Holland had an immediate effect.

Two days after Louis' order, the American consul at Rotterdam requested the advice of Bourne as to what should be done with the crews of the ten American vessels which were then in port.[4] Bourne at once busied himself in attempting to find a practical solution of this question, and the

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1) Rocquain, 150, Jan. 21, 1808.
2) R. A., S. S., *Orig. Konink. Decreten,* deel 115.
3) Rocquain, 152.
4) *Bourne MSS.;* George Curtis to Bourne, Jan. 25, 1808.

success of his efforts is shown in his despatch to the Secretary of State on February 22. A short time before, he writes, the Dutch government had allowed him to send a vessel to the United States containing "a great number of destitute American seamen." But he adds that he was soon "surrounded with about 100 more, collected from different quarters of Europe . . . . and it cost the public about $40.00 per day for their support. I thought it to be my duty to petition the king for permission to send a ship off with them . . . . and was happy in obtaining this permission." [1]

Dutch merchants generously lent their support in relieving the seamen of a nation upon whom, in former years, they had largely depended for their supply of foreign goods. On March 10, the American consul at Rotterdam informed Bourne that he would follow the example set by the merchants at Amsterdam in drawing up a petition to the Dutch Secretary of State. This petition, he states, would be signed by the masters of American vessels as well as by the merchants who were the consignees of the cargoes.[2] Three weeks later Bourne reported that, upon the request of several merchants at Amsterdam, the government had allowed the departure of another vessel, "to take home about 50 more seamen, and as the masters of the vessels from which they are discharged furnish the provisions for these 50, the United States will be at no charges on their accounts." [3] This relief work was not completed until the departure of the *Shepherdess* from Amsterdam, about the middle of August.

The embargo act of January 23 may be regarded as the beginning of a period of experimentation to do away with all neutral trade. As the weeks and months passed by, it became apparent that this experiment was a difficult one to carry out, and a costly one to the country at large. Hence we find the king and his officials enforcing the embargo in an arbitrary manner, and resorting to various concessions and evasions. For a week or two all vessels which attempted to enter were warned to depart. Thus a vessel from Philadelphia, which tried to enter the port of Hellevoetsluys late in January, was ordered by the naval commander there to

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1) *Consular Despatches, Amsterdam,* II., MSS., Dept. of State.
2) *Bourne MSS.*, Curtis to Bourne.
3) *Consular Despatches, Amst.*, II., Dept. of State, Bourne to Sec. of State, March 29.

put to sea again.[1] The next week a number of vessels with salted fish were refused permission to run into Amsterdam. They then proceeded to Antwerp where they discharged their cargoes without hindrance.[2] But this policy was difficult to adhere to. Within a few weeks the embargo caused a rise in the price of colonial goods and in the price of absolute necessaries of life, such as salt, quinine, etc. Public sentiment and private interest combined to clamor for the admission of vessels which hovered off the coasts, and Louis was constrained to yield, though he well knew that such a course ran counter to the will of his Imperial brother.

On February 9, the French ambassador reported that a few American vessels, which in all probability contained colonial goods belonging to Dutch merchants, had received permission to enter.[3] The ship *Lexington* from New York not only entered without hindrance, but was also allowed to depart. This vessel left the port of New York just before the long embargo was declared, with a cargo consisting of sugar, pimento and dyewoods. Her logbook indicates that she entered the port of Amsterdam on February 16 and began to discharge her cargo on February 29. She then took in ballast and set sail for Baltimore on March 31.[4]

"From time to time ships have arrived from your continent," Backer writes on February 22, "and they are permitted to remain in port, and some of them have even received liberty to discharge their cargoes."[5] On the same day Bourne wrote that the Dutch government was showing every effort to alleviate "the effects to which our commerce had been unavoidably subjected by the measures which France and this government have found it necessary to adopt for bringing England to peace . . . . Indeed, I think I can be justified in saying that this government will not be disposed to do anything unfriendly towards our country which it is not compelled to do by extraneous influences. It appears to have a due estimation of the reciprocal inter-

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1) Bourne MSS., F. Van der Schoor to Bourne, Feb. 4.
2) Colenbrander, Vde deel, 1ste stuk; Dupont-Chaumont to Champagny, Feb. 8.
3) Colenbrander, Vde deel, 1ste stuk, 27; Dupont-Chaumont to Champagny.
4) *Logbook of the Merchant Ship Lexington*, Timothy Gardner, Master, MS., in Library of Cong., Division of MSS.
5) *Taylor MSS.*, Backer to Taylor.

ests of the two countries, and to be anxious to preserve the relations of frienship and harmony . . . . , and in proof thereof it has of late, at my express request, modified some of its decrees so as to afford a material relief to our vessels and cargoes coming here." [1]

It was not long before "extraneous influences," to use Bourne's phrase, were being brought to bear to insure a more effective enforcement in Holland. "I am informed," Napoleon wrote to Gaudin, his minister of finance, "that the English make use of the following method for introducing their merchandise in Holland and France: they load American vessels with English goods, and escort them to the coasts of Holland; the vessels enter, declaring they came in a straight line from America, and have not met an English privateer at sea. By this means the privateers cannot seize them, and the local authorities receive them." Gaudin received instructions to call upon the French consuls in Holland for reports as to whether this information was true.[2]

On March 31, Champagny, the French minister of foreign affairs, addressed a communication on this subject to the French minister at The Hague. The Emperor had been informed, he states, that two American vessels had arrived at Amsterdam from London, with colonial goods, and that 150 other American vessels were taking in colonial goods at London, in the hope of carrying them to Holland. He instructs La Rouchefoucauld to act on the principle that every American vessel with colonial goods was suspected, since the general embargo in the United States prevented a single vessel from leaving port.[3]

These instructions to La Rouchefoucauld clearly foreshadow the more determined stand which the Emperor took two weeks later in regard to American vessels. In an administrative order to Gaudin, on April 17, Napoleon argued that since the United States had placed an embargo on their vessels and had resolved to carry on no more trade during the war, it must be evident "that all the vessels which state that they come from America, come from England, and that their papers are false." He gave orders that those which ar-

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1) *Consular Despatches, Amsterdam,* II., Dept. of State.
2) *Corresp. de Nap.,* XVI., 453; Nap. to Gaudin, March 29, 1808.
3) Colenbrander, Vde deel, 1ste stuk, 30; Champ. to La Rochefoucauld.

rived at the ports of France, Holland, Italy and the Hanse towns should be not merely *suspected,* but actually placed under sequester.[1] This order, although couched in the form of an ordinary letter, has come to be known as the *Bayonne decree.* It is not unlikely that it was called forth by the arrival, early in April, of a vessel from the French colony of Guadeloupe, which vessel, according to a despatch from the American minister at Paris, announced that "the most terrible apprehensions" existed "among the French colonists of the West Indies, in consequence of our embargo." [2]

In this same letter of April 17 Napoleon also called for information as to the number of American vessels which had arrived in France and Holland since the first of January. In reply to this question, La Rouchefoucauld reported on May 1 that, according to information furnished by the French consuls, not a single vessel had entered Dutch ports during the last six weeks. He immediately qualified this statement by saying that on April 20 an American vessel arrived from Baltimore, and on April 22 another from New York. But, although their papers were declared to be in good order, these vessels were immediately ordered to depart without obtaining leave to break cargo.[3] Backer states that this action of the government "has made much impression on our market prices, as it is now considered a certainty that no supplies can arrive here." [4] The Moniteur adds that these vessels hovered off the coast for two weeks, and comments that the refusal to admit them was all the more singular because it was known to the authorities that one of them had on board 196 cases of quinine.[5]

At about the same time an American vessel arrived from Lisbon with a cargo of salt, which was admitted because of the great scarcity of this article.[6] In fact, as early as February 11, Louis had ordered that vessels laden with salt should be exempted from the general embargo.[7] Upon the arrival

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1) *Corresp. de Nap.*, XVII., 16.
2) State Dept., *Despatches, France* Vol. XI; Armstrong to Madison, April 15.
3) Colenbrander, Vde deel, 1ste stuk, 34; La R. to Champagny.
4) *Taylor MSS.*, Backer to Taylor, May 13.
5) *Moniteur Universel,* May 30, 1808.
6) Colenbrander, Vde deel, 1ste stuk, 34. La Rouchefoucauld to Champagny, May 1, 1808.
7) R. A., S. S., *Koninк. Besluiten,* 118.

of this vessel from Lisbon, the Dutch minister of foreign affairs pointed out to La Rochefoucauld the necessity of admitting two or three additional vessels, until a sufficient supply could be received by land.[1] This proved to be merely a ruse, however, for obtaining other articles besides salt. When four other vessels with salt arrived about the middle of May, La Rochefoucauld ordered a close inspection of the cargoes. This inspection showed that the colonial goods on board had merely been covered with a layer of salt.[2] These four vessels were, therefore, ordered to leave, and on May 18 Louis was constrained to rescind the permit granted in February, and to order that the ports be closed to all vessels whatsoever.[3]

This order was violated on the very day it was issued, in favor of an American vessel from China, with a cargo of tea consigned to the house of Willinck and Company at Amsterdam. In justification of Louis, it should be said that he had specially authorized certain mercantile houses, early in 1807, to make use of American vessels in importing tea from China, and now probably felt bound to carry out his promise, in spite of the fact that circumstances had greatly changed since the authorization was granted.[4] On July 13 Louis again admitted an American vessel with tea and in this case he ordered that the goods should be landed in the royal warehouses but that the proceeds should be turned over to the consignees.[5] Before this order could be executed, another American vessel had arrived from China, and this apparently induced Louis to change his mind. On July 15 he informed his minister of finance that circumstances compelled him to revoke his previous authorizations to American vessels, and that he had decided to allow no further importations under any pretext whatsoever.[6] From a communication which Louis addressed to Napoleon on this subject, it appears that both these vessels were ordered to leave port—which can hardly be considered a pen-

1) Colenbrander, Vde deel, 1ste stuk, 34; La R. to Champ., May 1.
2) Ibid., La R. to Champ., May 19.
3) R. A., S. S., *Koninklijke Besluiten,* 131.
4) See his letter to Gogel, May 18, 1808; Duboscq, *Louis Napoleon en Hollande,* 232.
5) Colenbrander, Vde deel, 2de stuk, 424; Louis to Gogel.
6) Colenbrander, Vde deel, 2de stuk, 424.

alty—and that the cargoes were confiscated for the benefit of the public treasury.[1]

Upon receiving this second order, of July 15, the minister of finance not only intimated his disapproval, but hinted also at the desirability of making an exception in favor of certain vessels from *Gothembourg* (Göteborg), on the ground that their cargoes consisted in part of salt. This article, he pointed out, was now three times its ordinary price, "and can scarcely be purchased by the poorer class of Your Majesty's Subjects."[2] This information alone was sufficient to soften Louis' heart, and when the owners of the cargoes came to him in person and pleaded for the admission of these vessels, Louis was in a mood to yield to their request. On July 28 he permitted the minister of finance to admit the vessels from Gothembourg, provided it could be done without creating a stir, and without the knowledge of the French consuls. If this could not be done, the vessels were to be placed under sequester, but in that case the proceeds from the sale of the cargoes, which ordinarily would go to the public treasury, were to be handed over to the commercial houses concerned.[3]

This decision indicated a return to the policy pursued earlier in the year. On August 1, in fact, Louis again permitted the introduction of salt,[4] while in September a few vessels from China were allowed to enter.[5] Finally in a decree of November 27, which was intended as a more rigid reapplication of the embargo, an exception was again made in favor of vessels with tea and other Chinese products, and also of those whose cargo consisted of salt only. The Chinese goods, however, were to be placed in the royal warehouses, and could be sold only by special permission from the King.[6]

By that time the entire country was suffering from the effects of the embargo. All industry was paralyzed for lack

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1) Rocquain, 185; Louis to Nap., Sept. 25.

2) Colenbrander, Vde deel, 2de stuk, 425; Gogel to Louis, July 20.

3) Ibid., 427; Louis to Gogel, July 28. In all probability these were American vessels, for the ports of Holland were closed to Swedish vessels by royal decree of January 18, 1808.

4) R. A., S. S., *Secrete Besluiten*, 360.

5) See Louis to Napoleon, Sept. 25, Rocquain, 185; Louis to Röell, Sept. 18, Duboscq, 262-263.

6) *Moniteur Universel*, Dec. 31, 1808.

of raw material or for lack of export facilities. At Zaandam, so the Prussian ambassador reported, all mills were closed, the saw-mills for lack of wood, the paper mills for lack of rags. The laborers and their children were clad in rags, and their entire appearance bespoke dire poverty. This was early in May. Late in June he writes that the women and children of Amsterdam fairly staggered and seemed ready at every step to drop from sheer exhaustion, as they dragged their boats along the canals—"a sight which one sees here only too often," he adds, "and which is an unmistakable proof of great poverty of *the people*.[1] Agriculture still continued, but the wages of farm laborers declined owing to the competition which arose with the influx of the half-starved city populations.

The universal distress was due in large measure to the decrease in the supply of commodities which Holland in former years had received from abroad. As a necessary consequence the price of these commodities rose immediately after the embargo went into effect. On January 4 of this year the best quality of Georgia cotton could be obtained at $22.00 per bale. On February 22, a month after the Dutch embargo, it sold at $28.00. Four months later this figure had been doubled, and by August 6 the price had soared to $68.00 per bale. Thus in the space of seven months this article had increased to more than three times its former price. Carolina rice showed an even greater increase. This article, which usually sold at from $7.00 to $8.00 per cask, was selling at $12.00 per cask on June 20, and at $41.60 early in August—an increase of nearly 500% since January 4, when it sold at $9.00. Coffee, sugar and tobacco also showed a marked increase.[2]

The striking prediction which Schimmelpenninck had made at the very inception of the exclusion system in Holland was now being fulfilled. In July, 1803, shortly after Schimmelpenninck returned from London, he was summoned to an interview with Napoleon, in the course of which

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[1] Colenbrander, Vde deel, 1ste stuk, Inleiding, 27; from Niebuhr's *Circular Briefe aus Holland*, 1808.

[2] These figures have been obtained from the price lists which Backer regularly sent to Taylor—*Taylor MSS*. The last of these is dated August 6. After that date it became almost impossible to get a letter through to the United States.

he informed Napoleon that the prevailing belief in England was, that France could do no real harm by closing her ports and those of her allies to English goods, and that it would be impossible for France to attack the two great resources which England possessed for carrying on the war, that is, her finance and her commerce. When pressed for a further explanation Schimmelpenninck had replied:

"The application of the system comes down to this, that if you cannot deprive the 40 million Frenchmen, whom you govern, of the desire (for example) to drink coffee, to eat sugar, to use spices, commerce will always find means of procuring that quantity of coffee, sugar and spices which 40 million men need; and since commerce finds them only in British warehouses, it is necessary to seek for them at London, and to pay the dealers for them. Now your measures will hinder the means and facilities for importation, but, for all that, people will not drink a drop of coffee less nor eat a grain of sugar less . . . . they will import in a roundabout way what they used to import directly.

"The difference is that importation will be carried on by certain privileged houses, which know how to evade the laws and prohibitive measures, while, in the case of a free commerce, a greater number of houses would participate in it." The need of resorting to roundabout ways would necessarily occasion greater expenses, and would increase the cost of the merchandise imported. "But it is the consumers, and not the English, who pay the expenses." Napoleon agreed at the time that there was some truth in this view of the matter.[1)]

Schimmelpenninck did not foresee the possibility of a complete closure of Dutch ports, and therefore based his prediction on the assumption that British goods alone were to be excluded. With this difference, his statement fits the situation which arose after the embargo act of 1808, with remarkable accuracy. There was an immediate rise in prices, not only of coffee, sugar, spices and other colonial

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1) Ah! c'est la leur calcul! Il y à du vrais dans ce développement, are the words which Sch. attributes to him. See his report of the interview, July 24, 1803, in Colenbrander, IVde deel, 2de stuk, 453-454.

goods, but of all other commodities as well, including those furnished by neutral countries. And though this advance in prices was due in the first instance to the cutting off of the usual supply, it was due in the second place to the very cause which Schimmelpenninck assigned. For, the significant fact remains that in spite of the embargo a considerable amount of goods continued to be imported throughout the year 1808.

In addition to the evidence which has already been cited in proof of this assertion, it may be noted that, between the first of December, 1807, and the last of August, 1808, at least 54 British licenses were granted to neutrals to export goods to Holland.[1] Furthermore, a report of Gogel, the Dutch minister of finance, indicates that about 3½ million pounds of sugar and more than 9 million pounds of coffee were imported. In both cases about one-half came from the United States, the rest from Europe.[2] The statistics kept by Goldberg show that considerable quantities of rice (4,819,-906 pounds), cotton (1,093,908 pounds), cocoa, drugs, dyewoods, indigo and spices were imported, partly in American vessels.[3]

These figures, moreover, in all probability do not include the goods carried in by smugglers. Smuggling was particularly active in the newly acquired region of East Friesland, where the regular customs organization was not introduced until October; but it was prevalent also in all other parts of the kingdom. Some idea as to the amount of goods smuggled in may be gained from the testimony of a merchant at Rotterdam. He writes to the minister of Marine, on December 18, that Zeeland had become the centre of the smuggling trade for southern Holland. From there the goods were sent to Rotterdam, were stored in warehouses for some time, and were then repacked and sent to Amsterdam and elsewhere. At one town in Zeeland (Zierikzee) the warehouses were so completely filled with colonial goods that the smugglers no longer knew where to place them. He states

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1) *Privy Council Registers,* Vols. 68-70. This figure is suggestive rather than exhaustive, for the *Registers* are not complete.

2) Colenbrander, Vde deel, 2de stuk, 1428; Gogel to Montalivet, Aug. 7, 1810. His figures tally exactly with those of Goldberg.

3) R. A., *Collectie Goldberg,* 190, *Lijsten van In-, Uit- en Doorgaande Goederen.*

that the arrival of colonial goods at Rotterdam was a matter of daily occurence. The market for these goods had been transferred from London to the British vessels lying off the coasts of Holland. The Dutch vessels which went out to meet the British vessels hoisted a special flag for purposes of identification, and usually returned under cover of darkness. These facts, he states, needed no proof; they were known to every merchant at the Bourse, and even to the king himself. In this way the government was being deprived of its import duties, the honest merchants, and, in fact, the entire nation were being ruined, while the smugglers and speculators derived all the profits.[1)]

In another letter he noted that just before the frost set in, 500 bags of Jamaica sugar arrived at Rotterdam, and that one warehouse (he mentions the street) had received 400 bags of coffee, while another had been filled entirely. On a single day 35 wagons arrived from Papendrecht, each of which carried in at least 2,000 pounds of coffee.[2)]

From all this evidence in regard to the importation of foreign goods, it is perfectly clear that the increase in price was not due solely to the cutting off of the supply. A second reason was that the market was largely controlled by a few speculators who knew how to evade the laws, and who were willing to incur the expense and to assume the tremendous risks which commercial operations involved.

Turning now to the subject of *exportation* from Holland, we find that, between the first of February and the last of August of this year, at least 176 British licenses were granted to import goods from Holland.[3)] Most of these Dutch goods were probably obtained through smugglers, in much the same manner in which the Dutch received their British and colonial goods.[4)] Moreover, on three separate occasions during the year, Louis relaxed the embargo by permitting the exportation of Dutch goods.

On March 31 he authorized the ministers of marine and

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1) Colenbrander, Vde deel, 2de stuk, 685-686; Cremer to Van der Heim, Dec. 17, 1808.

2) Ibid., 688; Cremer to Van der Heim, Jan. 7, 1809.

3) *Privy Council Registers,* Vols. 67 to 70. See also note 6, p. 72.

4) Cremer, in his letter of Dec. 17, quoted above, specifically states that boat loads of Dutch goods were carried to British vessels.

finance not only to connive at smuggling, but also to direct it and to give it actual encouragement. They were instructed, however, to use the utmost caution, to send out only a few vessels at first and to increase the number very gradually, in order that the French officials might not become aware of the practice.[1)]

On May 26 Louis permitted the exportation of the three principal products of Holland—butter, cheese and gin— to friendly or neutral countries. The customary bond was to be exacted and the vessels were to receive positive orders to return in ballast only.[2)] La Rochefoucauld reported, on June 9, that this order might be regarded as null and void, because the merchants hesitated to deposit a bond which they feared would be forfeited.[3)]

This is partly confirmed by Bourne, who writes on June 16 that the embargo on American vessels "is still continued, except under certain circumstances, when they have liberty to depart if they take out cargoes of gin, butter and cheese, but as this will expose them to the British Blockade Aet of November 11, few of the masters are inclined to avail themselves of the permission under these terms. The embargo in the United States tends to render those in Europe less irksome to the parties, as the vessels could not be employed at home." He adds a suggestion which was later repeated by the American minister at Paris, and which was to be reëchoed in the halls of Congress. "If our government should permit the merchants of the United States to arm their vessels, and fight their way through the Blockades and other impediments to their course in the seas, many would succeed to get through, and the present prices of merchandise would richly reimburse the risk and charges, even if they were at the expense of fitting out twenty-gun ships in due order, to convey it here." [4)]

Backer also wrote from Amsterdam on July 14, "As yet no vessel dare sail from here with cargo, and in ballast our government will not permit them to go. From Rotter-

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1) R. A., S. S., *Secrete Konink. Besluiten,* 326.
2) R. A., S. S., *Konink. Besluiten,* 132, No. 2.
3) Colenbrander, Vde deel, 1ste stuk, 40; La R. to Champagny.
4) *Consular Despatches, Amsterdam,* II., Dept. of State. Bourne to Sec. of State.

dam some ships have sailed with cargoes of gin." [1] In reality, all the American vessels at Rotterdam took advantage of this opportunity to escape from the embargo. On April 29 there were ten American vessels at that port.[2] One of these, the *Amiable,* arrived at New York on August 3, and her captain reported that no American vessels remained in port when he set sail on June 26.[3] A few American vessels also left the port of Amsterdam. Of the eighteen which were in port on April 13,[4] eleven remained on May 26, the day on which Louis' order appeared.[5] Six of these were still under embargo on August 18; the other five had departed.[6] One of these was the bearer of despatches, and it is not unlikely that one or more of the others carried home American seamen.

On August 22 appeared another of those characteristic secret orders of Louis, this particular one being labelled *unusually secret* (buitengewoon secreet). It allowed the exportation of a large variety of articles which were either of Dutch growth or manufacture or of foreign origin. These could be sent only to friendly or neutral countries, and a special request must be made to the minister of finance for each expedition.[7] Whether any of these exports reached the United States is extremely doubtful, nor is there the slightest evidence to indicate that this measure afforded any relief to the few American vessels still embargoed in Holland.

In fact, the pressure which Napoleon brought to bear induced Louis, on October 13, to forbid all further exportation and to take new steps in enforcing the embargo.[8] The adoption of the decree of November 27[9] completed the commercial legislation of this year. This measure, like that of October 13, was intended to make the embargo more effective, although, as has already been noted, an exception was made in regard to the admission of salt and Chinese goods. Smuggling still continued, but so far as the official

1) *Taylor MSS.,* Backer to Taylor.
2) *Am. Daily Adv.,* June 16.
3) Ibid., August 5.
4) Ibid., June 16.
5) Ibid., August 1.
6) Ibid., October 3.
7) R. A., S. S., *Secrete Besluiten,* 360.
8) R. A., S. S., *Konink. Besluiten,* 157.
9) Ibid.

attitude of the government was concerned no further experiments were tried during the rest of the year and during the first three months of 1809.

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The various experiments which Louis had tried out in 1808 were merely a reflexion of what was going on in France during the same period. He might have justified the importation of salt, tea and other products by pointing to the fact that France was following a similar course. His orders allowing the exportation of Dutch goods followed closely upon the agitations in France for the exportation of French goods. And the same was true of the first measure adopted in 1809. A year's experimentation with the embargo had convinced Napoleon that France was not a self-supporting country. One after another the relief measures which had been tried out had resulted in failure. Napoleon was now ready to resort to a more radical experiment, which was nothing less than the adoption of the British license system in a somewhat modified form. By the 15th of March a suitable form of license had been agreed upon and before the end of the month a limited number of applicants had been supplied with these trade permits.[1)]

The action taken by the Emperor emboldened Louis to relax the embargo in Holland. All his subjects, he informed Napoleon, were clamoring for the re-opening of trade; he was therefore desirous of applying the same laws and regulations as were in force in France. On this matter he would impatiently await the Emperor's response.[2)] When Napoleon failed to reply, Louis construed this silence as an approbation, and on March 31 he issued the order which once more opened the ports of Holland to a limited amount of trade.

The decree of that date allowed the exportation of some forty agricultural or manufactured products, as well as the importation of a large variety of foreign goods, including tea and salt. Vessels with tea were, however, required to furnish proof that they had received previous authorization

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1) I owe this information to Dr. Frank E. Melvin, who has made a special study of the License System of Napoleon.

2) Rocquain, 195-196, Louis to Nap., March 16, 1809.

from the King. All other imported goods must be accompanied by a certificate of origin signed by a French consul, together with all papers which were necessary to prove that such a certificate was not false. The importation of any article not enumerated in this decree was forbidden, under penalty of confiscation of vessel and cargo. All previous laws in regard to non-intercourse with England remained in full force, except in so far as they were modified by this decree.[1] This measure was, therefore, in no sense, a repeal of either the Berlin or the Milan decree.

The few American vessels which were still embargoed in Holland now received leave to depart, either in ballast or with specified cargoes. In a communication to President Madison, April 10, Bourne claimed all the credit for having secured their release. He also reported the substance of a conversation held with the minister of foreign affairs. Röell asked me, he writes, "if I thought the measure would have a favorable impression on our government. I replied . . . . that as the government of the United States had in all its conduct evinced a strong desire to preserve harmony and friendship with the powers of Europe, it had witnessed with much regret the steps which some of them had lately pursued, as being evidently intended to impair those relations; and that it would consequently be disposed duly to appreciate every symptom of a return . . . . to those principles which constituted the basis of our former intercourse with them, and comported with the rights and interests of the United States . . . . a state of things which I conceived the interest of this country preëminently dictated, as it involved some of its most important interests." [2]

Our relations with Holland were still further modified by the repeal of the embargo in the United States. On March 1 Congress passed the non-intercourse act, which forbade all trade with England and France after March 15, but which re-opened commercial relations with the rest of Europe, including Holland.[3] Furthermore, as a result of the Erskine agreement, England signified her willingness to make a concession to the United States, pending the negotiations for a new treaty between the two countries. An Order

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1) Louis Bonaparte, *Documens Historiques*, III., 55-60.
2) *Consular Despatches, Amsterdam*, II.
3) *United States Statutes at Large*, II., 528-533.

in Council of May 24 declared that after June 10 the Orders of January and November, 1807, were to be withdrawn as respects American vessels. At the same time England relaxed her paper blockade of Holland in favor of American vessels. All vessels which left the United States between April 19 and July 20, 1809, were free to enter and leave Dutch ports and were not to be molested by English war vessels or privateers.[1]

When Bourne heard of the repeal of the American embargo, about the middle of May, he became highly indignant and expressed the opinion that it would "lead to much embarrassment and confusion." Any arrangement between the United States and England, he believed, "will only tend to commit us with France, and I believe that France will capture and confiscate all property of our country navigating under permission from Great Britain and violently set herself against any species of trade construed by her to be allowed by Great Britain . . . . The United States, by giving up the embargo, has thrown us into a wide ocean, without compass or guide to direct our true course." [2]

The Dutch decree of March 31 allowed the importation of only *four* articles which might be considered as American products—tobacco, potash, hides and whale oil. The main difficulty which Bourne foresaw was that American vessels then on their way to Holland would contain many additional articles, and that, in attempting to import these forbidden goods, they would be subject to the penalty which the law prescribed, that is, the confiscation of vessel and goods. He therefore sought to obtain a further concession from Holland in favor of American commerce. In a conversation with Röell, late in May, he requested that the ports of Holland be opened not only to all American products, but also to the produce of the East and West Indies, of which we were important carriers. He supported this request by saying that in proportion as the powers on the continent conciliated American commerce, our interest would stimulate the American government to oppose "the unjust and arbitrary pretensions of England in regard to the passage over

1) See Madison's Message authorizing trade with Great Britain, Richardson's *Messages*, etc., I., 457; also *Annual Register*, 1809, 763 et seq.

2) *Bourne MSS.*, Bourne to Taylor, May 15, 1809.

the seas, and the blockade of the world by a stroke of the pen.[1]

A day or two later Bourne received definite knowledge of the tentative agreement between the United States and England. This induced him to address two additional communications to Röell, in which he called for an immediate decision of the question.[2] Röell replied that for the present no further encouragement could be given to American commerce. The admission of colonial produce, he argued, would be directly contrary to the spirit of Dutch laws, inasmuch as the colonial possessions of Holland and France were then in the hands of England. Bourne answered this argument by saying that large quantities of colonial produce, which had remained in the United States because of the long embargo, had been imported from places which at that time still belonged to Holland or France. These could be brought to Holland without violating Dutch laws, the more so because Great Britain was tenaciously adhering to her navigation laws, which forbade Americans from obtaining sugar, coffee, cotton or other articles from British colonies, or from enemy colonies then in her possession. He added that it would be a great benefit to American commerce if the admission of South Carolina rice and Georgia cotton were allowed, in addition to the articles enumerated in the March decree.[3]

Meanwhile a few American vessels were beginning to arrive with forbidden cargoes of rice, cotton and colonial goods. Under the March law, such vessels and goods were to be confiscated, but Louis was not prepared to go to this extreme. The practice actually followed in such cases was to place the vessel under sequester, and to store the goods in the royal warehouses, with the intention of keeping them there until the return of peace.[4] When La Rochefoucauld remonstrated against this practice, Louis instructed Röell to

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1) *Bourne MSS.*, Bourne to Sec. of State, May 29, 1809.

2) R. A., *Buitenlandsche Zaken*, Bourne to Röell, June 1 and 2; the letter of June 2 is also found in *Consular Despatches, Amsterdam*, II.

3) R. A., *Buitenl. Zaken, Amerika*, 359, Bourne to Bosscha, June 6; also Bourne to Sec. of State, June 6, *Consular Despatches, Amsterdam*, II.

4) See Backer to Taylor, June 29, *Taylor MSS.;* Bourne to Taylor, June 30, *Bourne MSS.;* Bourne to Sec. of State, June 30, *Consular Despatches, Amsterdam*, II.

reply that he had no need of the French ambassador's permission to regulate his own affairs. "You might answer him," he continued, "that sequestration is exactly what I have ordered, and that, if American vessels are sent away, I would ruin Holland totally, which I shall never do. That Holland has as much need of the United States as the United States has of Holland, and that far from destroying the relations and understanding *(convenances)* which exist between the two nations, I would like to find ten occasions a day to strengthen and multiply them." [1]

La Rochefoucauld feared that the practice of sequestration, instead of confiscation, would result in the admission of a swarm of American vessels under false papers, with cargoes of British colonial produce. Moreover, in his belief, there was daily proof that such cargoes as were stored in the royal warehouses were later restored to the owners. "So true is this," he writes, "that there is not a single person at Amsterdam who does not regard these vessels as saved, after they are admitted; and what lends support to this assertion is the desire manifested by the owners that their merchandise should be sequestered until peace, rather than be sent out of the Kingdom." Since it was a very uncertain matter when peace would be restored, he argued that the owners would not submit to sequestration unless they had some assurance that their goods would soon be returned to them.[2]

Although La Rochefoucauld was probably justified in his suspicions of Louis' intentions, his opinion was by no means shared by Bourne. On June 4, Bourne wrote to the captain of an American vessel which had just arrived with colonial produce, "I exceedingly wonder why my countrymen come here in direct violation of the laws of the country, of which they cannot plead ignorance." [3] On June 21, he requested the American consul-general at London to give official notice that for the present no American vessels should proceed to Holland, since those which had already arrived were "under peculiarly unpleasant circumstances." [4] And on June 30, in writing to the Secretary of State, he gave the advice that our

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[1] Colenbrander, Vde deel, 2de stuk, 501-502, Louis to Röell, June 14, 1809.

[2] Colenbrander, Vde deel, 1ste stuk; La R. to Champ., June 19, 1809.

[3] *Bourne MSS.*, Bourne to Smith.

[4] Ibid., Bourne to General Lyman.

government "ought not to allow our vessels to clear for Dutch ports with colonial produce, till a change for the better occurs." [1]

Moreover, Bourne sought to prevent the sequestration of such American and colonial goods as were being brought into Dutch ports. On June 22, he requested of Röell that permission be granted for the sale of American goods, owned by American citizens. Should this request be refused, he begged that the vessels which had entered be allowed to depart with their full cargoes.[2] The testimony of Backer indicates that the owners and consignees were by no means as willing to have their goods sequestered as La Rochefoucauld believed. The cargoes of the five vessels which arrived at Amsterdam, he writes to William Taylor, "will have to be landed in the government stores, there to remain till peace. Of course, the consignees and captains are little disposed to land their cargoes in this manner, and they have presented a second petition by which they demand permission to leave port again with those articles which they are not allowed to land; whether, however, this will be allowed to them is a great question yet. You will, therefore, observe how dangerous it is for your ships . . . . unless they have nothing but tobacco on board." [3]

The persistent efforts of Bourne during the month of June to obtain relief for American vessels were not in vain, for on June 30 appeared a royal decree which embodied the very concessions which he had sought to obtain. The purpose of this decree, as the preamble stated, was to adopt measures more in harmony with those in France, and to maintain so far as possible, the relations between the mother country and such colonies as had not been seized by the enemy. The list of imports allowed by the decree of March 31 was provisionally increased by the following articles: rice, staves, Peruvian bark (quinquina), and other medical drugs, cotton from Georgia and the Carolinas, and coffee and sugar from Java. Besides requiring the usual certificates of origin, a commission of exports was to be appointed in order to decide whether these goods really came from America or from a Dutch colony. To facilitate their work,

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1) *Consular Despatches, Amsterdam,* II., State Dept.
2) R. A., *Buitenl. Zaken, Amerika,* 359.
3) *Taylor MSS.,* Backer to Taylor, June 29.

the goods must be landed at the royal entrepôts. After the decree had been in force for a month the director of customs was to report on the advisability of renewing it.[1]

A second decree of the same day was intended as Holland's reply to the raising of the American embargo. American vessels entering within three months from the date of the decree were not to be subject to the existing laws on the blockade, provided they had neither touched at an English port nor submitted to visitation by the enemy. The captain must make a declaration to that effect, and if this proved false the vessel and cargo were to be confiscated. The decree was also made retroactive in favor of American vessels which entered previous to June 30, and whose cargoes had been sequestered.[2]

As an additonal concession, Louis seems at this time to have resolved on granting licenses to American vessels for the purpose of protecting them from capture by privateers. The decrees of June 30 make no mention of licenses, but a letter which Bourne addressed to a London correspondent is conclusive proof. He informs his correspondent that the Dutch government "has resolved to grant licenses for the free entry of all vessels of the United States, coming direct therefrom, and laden with goods permitted by the King's last decrees of March 31 and June 30 . . . . Should any vessels under these circumstances arrive off the coast to your direction, and you should wish to send them here, and will transmit me the names and description of the vessel, name of the master, where from in the United States, and the general contents of the cargo, I will send you over the necessary licenses, or procure them to be sent on board off the Texel." [3] There is proof that such licenses were actually granted, but in view of later developments it is doubtful whether they afforded any protection against capture by French privateers.

These measures, provided they were strictly executed, contained nothing which violated the principles of the Milan decree, and they might have been tolerated by Napoleon if the United States had not committed the great blunder of allowing our vessels to depart for Holland while forbidding

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1) The decree is found in Rocquain, 202, in footnote.
2) Ibid., 203.
3) *Bourne MSS.*, July 24. Correspondent not named, but possibly Gen. Lyman.

them to sail for France. The American government failed to recognize the patent fact that the fortunes of Holland were intimately linked with those of France, and that any privileges accorded to the one must be accorded to the other as well. Louis, on his part, made the mistake of not informing Napoleon of this relaxation until the measures were already in force. On July 1, he transmitted the June 30 decrees to Napoleon, with the brief statement that since the Americans were in sight of the coast, and since his subjects loudly demanded their admission, he had taken these "dispositions" for a month only. If he received no reply, he would regard the Emperor's silence as an approbation of his course.[1)]

Louis' letter must have reached Napoleon about the time that the decisive battle of Wagram was being fought, which for the third time brought Austria at his feet. Napoleon found time to reply on July 17, in a letter written from Schoenbrun. "I demand that you retract your decree immediately . . . . " was his curt reply. "If the Americans raise the embargo for French vessels, well and good: France and Holland must follow the same system. Do not compel me to occupy your ports by my customs officers." [2)] On the same day he dictated to Champagny the instructions which were to be sent to La Rochefoucauld. "Write to M. de la Rochefoucauld that he demand the immediate revocation of this decree, and that he make it understood that Holland must follow the fate of France, its good or its evil fortune; that if she separates herself from the continental cause, I shall abandon her." [3)]

On July 29, Louis repealed the first of the June decrees, and declared that "American trade with Holland should be placed on the same footing as before the promulgation of said decree, so that no other vessels than those conforming strictly with all the restrictions in our former decrees shall be admitted. Those which do not so conform shall be warned off." The director general of customs was instructed to give notice of this repeal to the captains of all American vessels which arrived, and also to call their atten-

1) Rocquain, 201-203.
2) Rocquain, 204.
3) *Correspondance de Nap.*, XIX., No. 15547.

tion to the decree of March 31, which still allowed a limited importation.[1]

La Rochefoucauld was of the opinion that the mere repeal of the June decree did not satisfy the intentions of Napoleon, and pointed out that no mention was made as to what should be done with the cargoes which had already been landed, or with vessels which had not yet discharged their cargoes. The practice followed was to permit vessels which entered prior to July 31 to unload, on condition that they depart in ballast only. After that date American vessels with forbidden cargoes were warned not to enter.[2]

When the decrees of June 30 became known in the United States,[3] there resulted a rush of American vessels to Dutch ports. "A great number of vessels have sailed for Holland," writes William Taylor from Baltimore on August 18,[4] and the same was true at Philadelphia, New York and Boston. Millions of pounds of sugar, coffee, and other colonial produce, which had been brought in before the embargo, were still lying in the warehouses waiting for a market. At Baltimore alone it was estimated, in August, that there were 10,000,000 pounds of Java coffee.[5] American merchants now eagerly seized the opportunity to dispose of this merchandise.

Yet, even before American vessels began taking in cargoes permitted by the June decree, that decree had been revoked, and when they arrived before Dutch ports later in the year, the majority of them were warned not to enter. The question then was, whither should they go? To run into an English port would have subjected them to immediate confiscation, for the President's proclamation of August 9 had officially informed them that England had repudiated the Erskine agreement and had again made the Orders in Council applicable to American vessels.[6] The only port in West-

1) *The Aurora,* Oct. 9, 1809.
2) *Taylor MSS.,* Backer to Taylor, August 25; *Am. Daily Adv.,* November 3, letter of a mercantile firm at Amsterdam to a Baltimore firm, dated Sept. 12.
3) About the middle of August. See *Am. Daily Adv.,* Aug. 26.
4) *Bourne MSS.,* Taylor to Bourne.
5) This is the estimate made by Van Polanen, former Dutch minister at Wash., in a letter to Daendels, Gov.-general of the East Indies, August 20. R. A., *East India Collection.*
6) Richardson, *Messages,* I., 458.

ern Europe which was still open was Tonningen, and, as early as August 7, General Armstrong, the American minister at Paris, had requested Bourne to direct American vessels to this port.[1] Tonningen not only possessed a good harbor, but also had this additional advantage that the goods could be sent from there to Altona, Hamburg, Bremen, and thence farther overland into Holland. During the closing months of the year 1809 this port became the rendezvous for American vessels which were originally destined for Holland.

Although the majority of American vessels were thus turned away from Dutch ports, a limited number were still permitted to enter during the last months of the year. As has already been stated, the decree of March 31 was still in force, and this decree permitted the importation of some thirty articles, among them being tobacco, potash, hides and whale-oil. In August drugs and medicines were again added to the list of imports.[2] Vessels whose cargoes consisted only of these five articles were still at liberty to enter. But it appears that colonial goods were not entirely barred. "The colonial produce brought in our vessels," writes Bourne on August 24, "is locked up in the public stores, for how long a time we know not, to meet what results we cannot foresee."[3] And La Rochefoucauld writes, on September 6, that Holland was filled with merchandise brought in by Americans, a part of which was admitted since the intentions of the Emperor had become known.[4] A few days later he held a conversation on this subject with Röell, who tried to allay further suspicion by saying that the American vessels which had entered since the last decree contained no colonial goods, and that the cargoes had not been handed over to the consignees. When La Rochefoucauld questioned him more closely and asked whether he were willing to make a categorical statement to that effect, which could be transmitted to the Emperor, Röell dodged the question by saying that it would be necessary for him to obtain further information.[5]

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1) Dept. of State, *Despatches, France,* Vol. XI.
2) *Taylor MSS.,* Backer to Taylor, Aug. 25; also *Consular Despatches, Amsterdam,* II., Bourne to Sec. Smith, Nov. 7.
3) *Consular Despatches, Amsterdam,* II.
4) Colenbrander, Vde deel, 1ste stuk, 96, La R. to Champagny.
5) Ibid., 98 et seq., La R. to Champagny, Sept. 9.

Although the exact number of American vessels which were thus admitted cannot be given, the shipping lists are at least suggestive, if not exhaustive. On September 10 there were 24 American vessels at Amsterdam. During the next month 15 of these departed, most of them going to Tonningen and St. Petersburg. On October 5 there were still 11 American vessels in port.[1] These figures suggest that the number of arrivals must have been nearly sufficient to supply the Dutch markets for the time being with American and colonial goods. As will be shown presently, however, a considerable portion of these goods was placed under sequester.

There was yet another feature of the decree of March 31 which offered a possibility for the admission of American vessels. It will be recalled that this decree renewed the orders of the previous year for the admission of salt and tea. In respect to tea and other Chinese goods this decree was somewhat modified by an order of June 2, by which the director of customs was instructed to store such goods in royal warehouses, and to prevent the owners from disposing of them until the return of peace.[2] Although no instance of the admission of such vessels has been found, it is significant that, during the course of the year, fourteen American vessels received royal licenses to sail for China.[3]

Aside from this more or less regular and legitimate trade, the supply of American and colonial goods was further increased by the two irregular channels of privateering and smuggling. In 1808 Americans had been comparatively safe from capture by French privateers, but in 1809 numerous captures were made. The question of the disposition of such prizes as were brought into Dutch ports was a very complicated one, by reason of the numerous and often conflicting decrees of 1808 and 1809. Furthermore, French privateers openly insulted the sovereignty of the Dutch nation by seizing American vessels within Dutch bays and harbors—a practice which at once raised a delicate question of International Law and served still further to embitter the already strained relations between Louis and Napoleon.

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1) *Am. Daily Adv.*, November 27 and December 13; and *The Aurora*, October 31.

2) Duboscq, 300, Louis to Van Meeuwen, June 2.

3) Colenbrander, VIde deel, 1ste stuk, 193 ff.; report of Montalivet to Napoleon, October 11, 1811.

There are instances where the Dutch resented these insults by force of arms and compelled the captors to restore the prizes to their owners.[1] The situation finally became so serious as to attract the attention of General Armstrong at Paris.. "The account brought to me through various channels of the embarrassed state of our commerce in Holland," he writes on July 26, "and the belief expressed by several respectable houses of commerce there that my personal application to the King might be attended by useful effects, have decided me on fitting up the few weeks which may yet remain of the Emperor's absence from Paris by a trip to Amsterdam." [2]

This intention was not carried out until the following month. On August 15 he arrived at Rotterdam and on the 18th he held an interview with Röell in which he remonstrated in particular against the seizure of American vessels within Dutch waters. While he was dining *en famille* with Röell on the following day, the King's chamberlain invited him to a conference with Louis at seven o'clock that evening. At this conference the whole subject of American commercial relations with Holland was carefully threshed over. Louis pledged himself: "That in any event, even in that of war, both the persons and the property of your citizens within the limits of my kingdom shall be safe. My political connections are not unknown to you, but they can never induce me to forget the protection I owe to a regular and fair commerce . . . . " When Armstrong required new proofs of this good intention and pointed to the recent seizures in Dutch waters, Louis replied that these vessels had been retaken by the Dutch and restored to the owners, as a result of which he had had "a very serious quarrel with the Emperor." [3]

In October Louis gave another evidence of his good intentions by erecting a special prize court for the trial of American vessels brought in by French privateers. Bourne

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[1] La Rochefoucauld reports several such instances on July 3 and 24; Colenbrander, Vde deel, 1ste stuk, 85, 88. Also Bourne to Sec. Smith, September 30; *Cons. Desp., Amst.,* II. Two of the vessels which sailed for St. Petersburg on October 8 (*Friendship* and *Harmony*) had been brought in by French privateers and released by the Dutch government. See *Am. Daily Adv.,* Dec. 13.

[2] State Dept., *Despatches, France,* Vol. XI, Armstrong to Smith.

[3] State Dept., *Despatches, France,* Vol. XI, Armstrong to Smith, August 20.

reports that this court was erected "on the predetermination of causing those to be restored which may have been taken within his territorial jurisdiction." He adds that the government of Holland was better disposed toward the United States than any other government in Europe, but that it was powerless to carry its good intentions into effect.[1] There is no evidence that this prize court ever rendered any decisions. On the contrary, La Rochefoucauld, who for several months had been writing home for instructions in regard to the disposition of American prizes, informed Louis, in the latter part of October, that French tribunals must be given sole jurisdiction in such cases.[2] This course appears to have been followed after the first of November, while, pending the decision of the French tribunals, the cargoes were stored in the royal warehouses.

On October 13 Bourne estimated that the American property which had been placed under sequester was worth between one and two million guilders.[3] On November 20 he placed the original cost at $500,000; if the goods were allowed to be sold, at the prices which then prevailed, the profit would amount to $700,000, which would bring their total value to $1,200,000. About two-thirds of the total, he states, had been sequestered under decrees of the Dutch government; the remainder was comprised of the cargoes of vessels brought in by French privateers, the ultimate disposition of which depended upon the decisions of the prize courts at Paris.[4]

Although Bourne was well aware that sequestration of American property in Holland was due entirely to French influence, and that the same cause operated to prevent its sale, he acted on the assumption that this property would not be restored, and therefore sought to find a means of indemnifying the owners. On October 13 he wrote to Secretary Smith, "I believe this government would be gratified by having a good reason or apology for releasing it [American property], on terms which would release the government of its responsibility to France." He proposed that the Treas-

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1) *Consular Despatches, Amsterdam,* II., Bourne to Smith, October 25.

2) Colenbrander, Vde deel, 1ste stuk, 103 ff.; La R. to Champagny, October 28.

3) *Consular Despatches, Amst.,* II., Bourne to Sec. Smith.

4) Ibid., to Sec. Smith, Nov. 20.

ury Department should obtain information as to the number of American merchants whose property had been sequestered, and to make arrangements with them for selling this property to the government. The government should then represent itself as the purchaser of these goods and present a claim against the Dutch government for reimbursement. This plan, he adds confidentially, was approved by the director of customs, "who thought it a good way for discharging the property without offending any one or violating any pledges or systems." [1]

Although Bourne recurred to the subject in several of his later despatches, there is no evidence that the American government approved of the plan at the time, nor that the Dutch government made any attempt to carry it out. By the middle of November the matter seems to have been dropped, and the subject of claims against Holland was not again taken up until 1815. Meanwhile, during the course of the next few months, as will be indicated later, a portion of these sequestered goods was either sold by the Dutch government for the benefit of the owners or was directly handed over to the owners or consignees. But of this secret arrangement Bourne appears to have been unaware.

Yet, even though the cargoes of all the prizes brought in by French privateers, and those which were sequestered by the Dutch government, be added to the list of goods regularly imported by Americans in spite of the restrictions and uncertainties to which trade was subjected during this year, the total amount of goods thus introduced was small in comparison with the vast amounts which were smuggled in. According to Bourne, the amount brought in by smugglers *in a single week* was equal to all the American property locked up in the royal warehouses.[2]

Smuggling was unusually active during the latter months of the year, due to the attack which the English made on the port of Flushing late in July, and to their occupation of the island of Walcheren during the rest of the year. The English made use of this opportunity to flood that part of the country with the merchandise with which their own warehouses were overflowing. In November coffee could be obtained in Walcheren for eleven cents a pound and sugar at

1) *Consular Despatches, Amsterdam,* II.
2) *Consular Despatches, Amst.,* II., Bourne to Smith, Nov. 20.

sixteen cents.[1] And in spite of new decrees and regulations on the part of the Dutch government, these goods found their way into other parts of the Kingdom as well. Moreover, in order to meet this attack, all the available troops which had been stationed along the coasts, partly for the purpose of preventing smuggling, were now rushed southward, with the result that contraband trade revived along the entire coast, but particularly in East Friesland.

A correspondent at Rotterdam, writing to a merchant at Philadelphia on September 18, makes the statement that, in spite of the *triple line* of customs officers, the great quantities of coffee and other articles introduced by fraud had prevented an increase in prices. "Within the space of a fortnight there have been imported into East Friesland alone upwards of 7,000 bags of coffee."[2] The government officials were well aware of this practice but apparently did little or nothing to prevent it. Some interesting statistics on this fraudulent trade are furnished by no less an authority than the Secretary of finance. Between October 22 and November 11, one house at Groningen received 30,500 pounds of coffee and 21,900 pounds of sugar. One of its competitors at the same place laid in the following supply: coffee, 18,045; indigo, 4,756; sugar, 15,650; cotton, 12,400; campeachy wood, 11,250.[3]

Others received similar or even larger amounts. Between October 15 and the 30th of November, 173 vessels discharged cargoes of contraband goods at the various docks of Amsterdam, which had been carried by various internal waterways from the region of the north. Millions of pounds of coffee, sugar, pepper, indigo, cocoa, cotton and dyewoods, besides smaller quantities of tobacco, nutmeg, quinine and other articles were thus brought to Amsterdam alone in the space of a few weeks.[4] Many of these commodities must have been introduced from the great British entrepôt at Heligoland, but beyond any doubt large quantities were first brought to Tonningen, or some other northern port, in American vessels, so that this contraband trade still furnished Americans with an indirect means of supplying Dutch markets.

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1) *Moniteur*, November 22, 1809, p. 1291.
2) *Am. Daily Adv.*, November 14.
3) The amounts are in pounds.
4) Colenbrander, Vde deel, 1ste stuk, *Inleiding*, XXXIX.

The events of the year 1809 had done much to intensify the quarrel between Louis and Napoleon. In the fall of this year the Emperor's demands became more insisting, while his complaints multiplied; more and more savage became his rebukes and denunciations, more violent his threats. And, as ever, the most frequently recurring complaint was directed against the non-enforcement of the Continental System. In spite of Napoleon's peremptory order of July 17, Louis had continued to encourage the admission of American vessels. And although Louis might plead that their number was insignificantly small and that their cargoes were securely locked up in the royal warehouses, these facts did not mitigate Napoleon's anger. The nature of the offense lay not in the number of American vessels which were admitted, but in the violation of a policy which Napoleon deemed it of importance to adhere to in his political dealing with the United States—the policy, namely, of prohibiting all American trade with Holland and other allied states of the Empire, until such time as the American government, by repealing the non-intercourse act of March 1, 1809, should again permit free commercial intercourse with France itself. An even more serious offense in the eyes of Napoleon was the vast amount of smuggling which continued to be carried on, with or without the connivance of Louis and his officials, along the land frontier as well as along the entire seaboard. Napoleon realized full well that a continuance of this practice meant nothing less than the breakdown of the Continental System in Holland.

In a note of October 11, 1809, dictated to Champagny but intended to be forwarded to La Rochefoucauld, Napoleon threatened to send in French troops for the purpose of closing Dutch ports and of seizing contraband goods, if need be in Amsterdam itself. La Rochefoucauld was to impress upon Louis "que ceci n'est pas une plaisanterie"; that Holland was betraying the common cause; that it were better for her to act openly as the ally of England than to carry on war in disguise against France; and that in the end the double dealing on the part of the King's ministry must result in the loss of Dutch independence.[1)]

This note, which was presented to Louis at the time when

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1) Rocquain, 217-218.

his quarrel with Napoleon over the disposal of American prizes brought in by French privateers was at its height, utterly discouraged the weak and vascillating king of Holland. On the 19th of November he begged Napoleon for an interview, preferably outside of Paris, saying that the disfavor in which he found himself could no longer be endured.[1] But, upon the unanimous advice of his ministers, he yielded to the wishes of Napoleon, who desired his brother's presence at Paris. On the morning of November 27 he began the journey which was to have momentous consequences for the future of Holland, and on December 1 he reached Paris, where he remained, virtually a prisoner of state in the hands of Napoleon, for fully four months.[2]

1) Rocquain, 226-227.
2) Wüpperman, *Nederland Voor Honderd Jaren,* 319-322.

CHAPTER IV.

The Crises of 1810 and its Results.

The result of the first interview between the royal brothers was such as to convince Louis that it would be a well-nigh hopeless task to satisfy Napoleon's grievances against Holland. It was apparent from the outset that the government of King Louis had been weighed in Napoleon's balances and been found wanting—wanting more decidedly than that of the Grand Pensionary Schimmelpenninck. Referring to the relations between Holland and France, in his address to the Corps Legislatif on December 3, Napoleon stated, "Changes will become necessary. The surety of my frontiers and the well known interest of both countries imperatively demand it." [1] But for many weeks Louis was to be kept in painful uncertainty as to the nature of the changes which Napoleon should ultimately decide on introducing.

The closing month of the year 1809 was largely devoted to fruitless discussions between Emperor and King and to endless negotiations between their respective ministers of foreign affairs, Röell and Champagny. In this manner the month of January also passed away, and yet the fate of Holland remained undecided.[2]

A *Moniteur* article of the 31st of January, written in reply to King George's address to the British Parliament, affords an insight into Napoleon's plans at that time. Holland, it was boldly asserted, "has betrayed the common cause; she has received your [England's] commerce under

[1] Rocquain, Introduction, XCVI.

[2] The best source for the negotiations at Paris, a discussion of which must here be omitted, is the report of Röell, *Verslag van Hetgeen te Parijs is Voorgevallen*, etc. Other source material may be found in Colenbrander, in the *Correspondence of Napoleon*, and in the appendices (150 pages) of Wichers' *De Regeering van Koning Lodewijk Napoleon*. The most elaborate secondary account is given by Wüpperman, *Nederland Voor Honderd Jaren*.

an American flag, disavowed by the United States itself . . . . . ; but she shall no longer receive it. Your Orders in Council of 1807 call for the occupation of the coasts and ports of Holland by customs officers and troops upon which we can rely; and that will take place. And as one of the results of the first and of the second coalition was to extend the coasts of the Empire up to the Scheldt, the result of your Orders in Council of 1807 will be to extend the coasts of France up to the Elbe." [1]

As a result of this open threat of annexation, King Louis, on February 1, issued the last of his decrees on commercial matters. Since the 31st of July, 1809, the ports of Holland had remained open to American vessels with cargoes of tobacco, potash, hides and whale-oil. After February 1, 1810, even this meagre concession was revoked; Dutch ports were to be closed to "every American vessel whatsoever", while, except for the prizes, those already in port were to be given orders to depart without breaking cargo.[2] There is every evidence to believe that this decree was enforced to the letter during the remainder of Louis' reign;[3] henceforth an American vessel could enter only as the prize of a French privateer.

On the same day on which this decree appeared, Louis also instructed his ministers to reply to the grievous accusations of the *Moniteur* that Holland had destroyed the common cause, and had received English vessels under an American flag.[4] The ministry complied with these instructions by issuing a manly protest, which appeared in the *Koninklijke Courant* of February 5, and which was written in a spirit worthy of the Dutch Republic in its most palmy days.

"What Hollander," they ask, "can have read without emotion [the accusation] that we have betrayed the common cause . . . . We, the descendants of the Batavians, of the

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1) *Moniteur,* January 31, 1810, p. 117.

2) The decree is mentioned in Bourne's despatch to the Secretary of State, Feb. 4, 1810. *Consular Despatches, Amsterdam,* II.

3) Late in March *The Spy* from Baltimore sought to enter the Texel but was warned off; on April 10, the *Superb* met with the same treatment. On the same day the *Whampoa* and *Perseverance* from New York were brought to Amsterdam as prizes. See *Am. Daily Adv.,* May 3 and 28.

4) His instructions are to be found in Röell, *Verslag,* bijlage 48; also in Kraaijenhoff, *Bijdragen tot de Nederlandsche Geschiedenis,* 327-333.

most faithful allies of the Romans, do not break our treaties . . . . We declare before God and before the whole of Europe that we do not deserve this cruel accusation. But let the facts speak for themselves." After an enumeration of the sacrifices which Holland had made in the interest of France since 1795, they point out, that since the issuance of the Milan Decree, the king of Holland had voluntarily closed his ports for over fourteen months; that the very limited relaxation of the embargo, in March, 1809, had been imperatively necessary and had been resorted to with the intention of bringing Dutch regulations regarding neutrals more in conformity with those of France; and that the further concession made in June of that year, in favor of American vessels, had been revoked within four weeks.

During these four weeks, they maintained, *only 23* American vessels had been admitted, all of them provided with the requisite certificates of origin, while ten of these certificates even bore the signatures of French consuls in America. Furthermore, all the papers relating to these 23 vessels had been forwarded to the American consul-general, and had been acknowledged by him as *bona fide*. How, then,could the *Moniteur* state that they had been "disavowed by the United States itself"? In the very next sentence, however, they acknowledge that the papers of a few vessels were found to be false and were repudiated by the American government,—whether any of the 23 mentioned are here referred to cannot be definitely determined from the context—but they claim that the Dutch customs officers were the first to detect the fraud and to send the papers back to the United States. Bourne's comment on this assertion is that he was not aware that the papers "of any of the 23 vessels mentioned" had "ultimately proved to be false," and was ignorant of the fact that the American government had denied "that the vessels and cargoes were of the United States." [1]

As a further evidence of Louis' good intentions, they point to the fact that since the first of April, 1809, 141 vessels had been confiscated, while all cargoes of doubtful origin had been stored in royal warehouses for safekeeping,

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[1] *Consular Despatches, Amsterdam,* II. Bourne to Sec. of State, February 10.

and in conclusion they cite the recent order of Louis for the total exclusion of American vessels.[1]

Neither the new decree of Louis nor the elaborate defense of his ministers appear to have had the slightest effect upon Napoleon. The fate of Holland, in fact, depended no longer upon what Louis did or left undone, but very largely upon the attitude of England. Napoleon was bent on securing peace with England, or, failing in this, to obtain a revocation or modification of her Orders in Council, and Holland was to be used as a pawn in the game.

About a week before the threat of annexation appeared in the *Moniteur* of January 31, (which, of course, was intended to influence the British ministry), Napoleon informed Louis that the independence of Holland might yet be saved if an agent were sent to England for the purpose of negotiating peace or securing a modification of the Orders in Council. The Dutch ministry, acting on instructions from Louis,[2] secretly appointed for this mission Labouchère, head of the banking house of Hope and Company at Amsterdam, and son-in-law of Baring, the influential London banker. But Labouchère's mission soon proved to be an utter failure. On February 12, he received the final reply of the British ministry, to the effect that England could not sacrifice her own interests for the sake of preventing the annexation of Holland, and could not relax her orders until Napoleon showed a disposition to revoke the French decrees.[3]

The failure of these negotiations left Napoleon free to deal with Holland as he saw fit. Accordingly, on February 17, he ordered Champagny to draw up the bases of a treaty between Holland and France,[4] and on March 13, Champagny was ordered to sign the treaty without delay.[5] By this treaty, which bore the date of March 16, the Dutch provinces South of the Rhine were ceded to France. All trade between England and Holland was once more prohibited until England should revoke her Orders in Council,

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1) The article is reprinted in Vreede, *Diplomatie*, 2B, 364-367; in Röell, *Verslag*, bijlage 48C; and in Wichers, 307-309.

2) Wichers, 300. Louis to Van der Heim and Appelius, January 25.

3) On Labouchère's mission see an article by G. Labouchère, "Un Financièr Diplomate au Dernier Siecle—Pierre César Labouchère," in *Le Revue de l' Histoire Diplomatique*, July 13, 1913.

4) *Correspondence de Napoleon*, XX., 229.

5) Ibid., 265.

and, in case trade licenses should be granted, only those authorized by the Emperor were to be valid. To insure the execution of this provision, French customs officers were to be stationed in Holland and the coasts and harbors were to be guarded by 18,000 soldiers, one-third of these being French. Difficulties arising from the seizure of prizes off the coasts of Holland could be settled by the Emperor alone, and, by article two of a secret protocol attached to the treaty, vessels with contraband goods could be seized even in the ports of Holland. More significant for our purpose, however, was article ten of the treaty, which stipulates: *"All merchandise brought in by American ships which entered the ports of Holland since the first of January, 1809, shall be seized and shall belong to France, to be disposed of according to circumstances and according to the political relations with the United States."* [1]

This stipulation of the treaty, which was to have important consequences for the future relations between the United States and Holland, appears to have been brought forward for the first time on February 22, and the significance which Napoleon attached to the matter is shown by his statement to Champagny, that he would give his attention to the definitive treaty only after an agreement had been reached with Louis in regard to "the colonial goods brought in by American vessels or otherwise." [2] Two days later Louis received from Champagny the project of a treaty as Napoleon desired to have it signed.[3] It appears that Louis hesitated to sign the treaty in this form, and remonstrated in particular against the article calling for the confiscation of American vessels; and well might he hestitate, for a ratification of this article of the treaty would be a violation of the solemn pledge given to General Armstrong in August of the preceding year,—the pledge that even in case of war with France, the persons and property of American citizens within the limits of Holland would not be molested.[4] Röell also found this clause objectionable and preferred to have the merchandise brought in by American vessels remain in the

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[1] The treaty and protocol may be found, among other places, in Rocquain, 261.

[2] *Correspondence of Napoleon,* XX., 235. Nap. to Champagny, Feb. 22.

[3] Röell, *Verslag,* 359-362, bijlage 69.

[4] See page 87 above.

custody of the Dutch government, "in order," as he writes, "that your Majesty might restitute, if not the whole, at least a part of the consignees." But he advised the king, if the fate of Holland depended solely on this matter, to yield to the wishes of the Emperor.[1)]

What motives induced Napoleon to insert an article of this character in a treaty between Holland and France? Was it intended merely as a means of punishing the Dutch nation for the lax enforcement of the Continental System, and in particular for the non-fulfillment of the Milan Decree? This inference seems warranted from the fact that this article was retroactive as well as from all the circumstances leading to the conclusion of the treaty. But if this was Napoleon's only motive, why did he not demand the confiscation of all merchandise which entered since the promulgation of the Milan Decree? Why did the treaty call for the confiscation of such goods only as were brought in since the beginning of 1809? That Napoleon was actuated by a more important, or, at least, a more specific motive than the punishment of Holland for past negligence is evident also when we note, in the first place, that, whereas the penalty for violations of the Milan Decree fell upon the vessel as well as upon the cargo, the treaty does not call for the confiscation of the *vessels* but only of their *cargoes;* secondly, that this stipulation bound Holland to deliver to France such merchandise only as was brought in by *American* vessels, which are thus intentionally placed in a class by themselves, but that she was free to dispose of the merchandise brought in by all other vessels in accordance with the laws and regulations at the time in effect; and thirdly, when we note that not only the goods of British origin or manufacture, but that *all* goods discharged by American vessels since January 1, 1809, were to become the property of France. What, then, was this additional, this more specific motive?

The treaty itself suggests an answer to this question, for France was to dispose of the goods *according to her political relations with the United States.* It is obvious that this article of the treaty was directed against the United States more particularly than against Holland, and that we must

1) Röell, *Verslag,* 362-368, bijlage 70.

consider it as a means of retaliation employed by the French government for some hostile act of the American government.

At the time the treaty was concluded, the only American measure which France could consider detrimental to her interests was the Non-Intercourse Act of March 1, 1809, which had been substituted for the embargo of 1807. This act forbade all commercial intercourse with France and England, and prohibited French and English vessels from entering American ports, on penalty of confiscation. According to Armstrong, it "was first communicated to His Majesty in June or July last," [1] and Napoleon's communication to Louis, on July 17, 1809,[2] is sufficient proof of the fact that he was on that date, at least in a general way, acquainted with the contents of the act. The act did not at the time cause any appreciable change in our relations with France, nor did it incite Napoleon to deeds of reprisal until the following year. Indeed, Armstrong was convinced "that from the first promulgation of the act to the 25th of January (1810), nothing in the nature of reprisal was contemplated by His Majesty." [3] On the morning of January 25 an interview took place between Armstrong and Champagny, but even in the course of this "long conversation," as Armstrong later reminded Champagny, "no idea of reprisal was maintained by you, nor suspected by me; but, on the contrary, in speaking of the seizure of American property in Spain, you expressly declared that it was not a *confiscation.*" [4]

On this very morning, however, Napoleon, after hearing Champagny's report of the interview, dictated a note, intended to be forwarded to Armstrong, which clearly states, "If American vessels have been sequestered in France, France has merely followed the example that has been set by the American government." After calling Armstrong's attention to the objectionable features of the Non-Intercourse Act, Napoleon then continues, "It is in reprisal for this last regulation, that American vessels have been seized in Spain

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[1] *American State Papers, Foreign Relations,* III., 381-382. Armstrong to Champagny, March 10, 1810.

[2] See page 83 above.

[3] *American State Papers, Foreign Relations,* III., 381.

[4] Ibid., III., 381.

and at Naples." [1] In returning this note for Napoleon's approval later in the day, Champagny enclosed a copy of article three of the Non-Intercourse Act, on which he comments, "This is the measure which is most hostile to France . . ." [2]

This note, dictated on the 25th, was somewhat altered in the course of the next few days, and was not submitted to Armstrong until February 14. But the essential idea remained the same. In the note of February 14, which contains the first official notice to Armstrong of Napoleon's determination to retaliate, we read that the United States, through "having no ground of complaint against France, comprised her in their acts of exclusion," and since the first of May, 1809, had forbidden French vessels to enter American ports, "under penalty of confiscation. As soon as His Majesty was informed of this measure, he considered himself bound to order reprisals on American vessels . . . . ." "In the ports of Holland, Spain, Italy and Naples American vessels have been seized because the Americans have seized French vessels." [3] When Armstrong expressed his surprise at this rather sudden determination of Napoleon to retaliate, at so late a date after the promulgation of the act, Napoleon instructed Champagny to explain that the act had been known to him only a short time, "and that it was not until I was informed of it that I prescribed the same measure." [4] And as late as August 5, Champagny speaks of the Non-Intercourse Act as one "of which the Emperor knew nothing until very lately." [5]

Assuming that Napoleon was sincere in saying that the act had been known to him only a short time, the only explanation which can be offered is that he must have read it for the first time, or must have reread it more attentively, just before dictating the note of January 25, and that his attention was directed in particular to the penalty attached for violations of the act. On January 10 he had ordered Champagny to draw up a report on the state of relations between France and the United States, and to submit with this report copies of all the despatches and other documents,

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1) *Correspondance de Napoleon,* XX., No. 16169.
2) Ibid., No. 16169.
3) *American State Papers, Foreign Relations,* III., 380.
4) *Correspondance de Napoleon,* XX., 273, March 20, 1810.
5) *American State Papers, Foreign Relations,* III., 387. Champagny to Armstrong.

translated into French.[1] On January 24 he reminded Champagny that the report was due.[2] It is not at all unlikely, therefore, that this report, which would at all events have included a discussion of the Non-Intercourse Act, reached him late on the 24th, or early on the 25th of January. It is *certain* at any rate, that he *had* read the act before he dictated the note of January 25.

This interpretation of Napoleon's conduct helps to explain why in the first draft of the note to Armstrong (of January 25) reference is made to the seizure of American vessels in Spain and at Naples, but not in Holland, and why in the final note of February 14 Napoleon could also refer, with some exaggeration of the truth, to seizures in Holland. For, in the meantime he had compelled Louis to issue the decree of February 1, which has been discussed above, and though this decree did not specifically call for the confiscation of American vessels, but merely required their total exclusion from Dutch ports, it was clearly in line with Napoleon's newly adopted policy of retaliation. And this policy of retaliation appears to have been pursued merely a step farther, when he ordered Champagny, on February 22,[3] to come to an agreement with Louis in regard to the colonial goods which had been brought to Holland in American vessels. The line of connection seems all the more clear when we note, in the same communication to Armstrong of February 14, in which the determination to retaliate was first announced, that Napoleon had also extended an olive-branch to the American government, by offering to enter into a convention favoring American trade, if the United States would agree that its vessels would no longer submit to the British Orders in Council of 1807; that Armstrong had hastened to submit a proposal of this nature for Napoleon's consideration, but that Napoleon indignantly rejected this proposal on February 22,[4] for the alleged reason that it had no other purpose than to favor contraband trade in American vessels. The same day on which Armstrong's proposal was rejected appeared Napoleon's order to Champagny, which became the basis of article ten of the treaty with Holland.

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1) *Correspondance de Napoleon,* XX., 109.
2) Mary Lloyd, *New Letters of Napoleon* I., 169.
3) See page 97.
4) *Correspondance de Napoleon,* XX., No. 16280.

Four days after the treaty was signed Napoleon began a second attempt to obtain peace with England. Labouchère, who again acted as agent, was instructed to impress upon the British ministry that the French customs officers and troops would be withdrawn from Holland the moment England revoked her Orders in Council, and that, by entering into some arrangement for continuing the war in a less bitter manner, England would save the independence of Holland and would be able to settle her differences with the United States. But the British ministry turned a deaf ear to these proposals,[1] and their indifference seems to have revived Napoleon's original plan of annexing the whole of the Dutch Kingdom.

This plan was strengthened by the failure of the Dutch government to execute several important provisions of the treaty. The terms of the treaty were very severe, and La Rochefoucauld was no doubt correct when he reported, on April 16, "Everyone realizes the impossibility of its execution." [2] Moreover, Louis was very bitterly disposed toward Napoleon because of the humiliation he had endured at Paris, and showed no desire or intention of carrying out the treaty in full. Indeed, he acknowledged on July 1, that he had "ratified the treaty, dictated by France, conditionally, with the conviction that the provisions most disagreeable to the nation and to myself would not be carried out." [3] He not only sought to delay the execution of the treaty, but, in direct contravention of article one, he even issued licenses to trade with England.[4]

The extent of Napoleon's dissatisfaction with the conduct of Louis is shown by the fact that a mere incident, which occurred during May and for which Louis was in no wise responsible, caused a complete severance of the personal relations between the two brothers. A coachman of La Rochefoucauld had been insulted and maltreated by a number of persons at Amsterdam, and because of this trifling affair Napoleon feigned such extreme anger that he

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1) For Napoleon's instructions, March 20, and Louis' report of the negotiations, April 17, see Rocquain, 263-264 and 266-267.

2) Colenbrander, Vde deel, 1ste stuk, 128. La Rochefoucauld to Champagny.

3) Rocquain, 322-323. Message to Corps Legislatif.

4) Mary Lloyd, *New Letters of Napoleon* I., 186. Napoleon to Champagny, June 24.

wrote Louis a scathing letter, on the 23rd of May, which closed with these words, "This is the last letter I write you as long as I live." [1] Matters now rapidly went from bad to worse, and the inevitable crisis came when Napoleon ordered French troops to occupy Amsterdam. This order led to the abdication of Louis, on the first of July, and on July 9 Napoleon decreed the annexation of the Kingdom of Holland to France.[2] LeBrun, the duke of Plaisance, was made Lieutenant-General.

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It now remains to examine more fully the manner in which the tenth article of the treaty was carried out.

About the middle of May, before the Dutch government had taken any steps to execute this provision, four French commissioners were sent to Amsterdam, to take possession of the American cargoes which had entered during the fourteen and a half months preceding the conclusion of the treaty, and to supervise their transportation to France.[3] This necessitated an inquiry into the amount and value of the goods. On May 14 La Rochefoucauld demanded that the full amount of the cargoes be handed over to the Imperial director of customs, who had been named to receive them.[4] Louis replied to this demand, (which was exactly what the treaty called for), by reminding Napoleon that a portion of the goods was owned in Holland, and by requesting that this portion be exempted from confiscation.[5] On the same day he also informed him that the goods were valued at between four and five million guilders.[6] Napoleon not only ignored Louis' request, but his reply of May 22 shows that his own estimate of the value of the goods was eleven

1) Rocquain, 276.

2) The circumstances leading to annexation are detailed by Wüpperman, 348-363.

3) *Consular Despatches, Amsterdam,* II., Bourne to Secretary of State, May 20; also *American State Papers, Foreign Relations,* III., 384, Armstrong to Smith, May 24.

4) Colenbrander, Vde deel, 1ste stuk, 136. La R. to Champagny, May 16.

5) Ibid., 137. Demandes soumises à Sa Majesté L'Empereur par le Roi Louis, May 16.

6) Rocquain, 273, Louis to Napoleon, May 16.

million guilders,[1] which was more than twice as high as the figure named by Louis.

The low estimate furnished by Louis is evidence of an intention on his part to evade the treaty. La Rochefoucauld reported in his despatch of May 25, that he had received from Röell a list of the merchandise brought in by American vessels, and explained that this list included only such goods as were still to be found in the royal warehouses, but did not include that portion of the cargoes which had been placed in the hands of the owners or consignees.[2] The greatest difficulty in the execution of article ten arose from this last class of goods. Some of these had been sold by the original owners, had passed from hand to hand, and could now be located only after a prolonged search. Moreover, certain quantities of coffee, sugar, rice and other commodities had actually been consumed, thus making a literal compliance with the treaty an impossibility. Add to this that the owners were loath to part with their property, and the reason why Louis' estimate included only about one-half of the goods can readily be understood. Champagny, however, insisted that if the goods themselves could not be delivered, the Dutch government should pay a money equivalent.[3]

Not only did Louis resort to evasion, but for about a month he and his officials contrived to prevent the French commissioners from obtaining possession of the goods. It was the 15th of June before Sérurier, La Rochefoucauld's successor, was able to report that final arrangements had been completed, and that the first consignment would probably be sent to France in a day or two.[4] Less than two weeks later Louis was no longer King of Holland, and the day on which he abdicated the greater portion of the cargoes still remained to be delivered. Champagny even accused the Dutch government of having evaded the treaty entirely, and of having limited itself to "offering the cargoes of the American vessels which had been seized by French privateers." Röell sought to explain that this accusation must be based on a misunderstanding, and that the

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1) Rocquain, 276, Napoleon to Louis, May 22.
2) Colenbrander, Vde deel, 1ste stuk, 138, La R. to Champagny.
3) Colenbrander, Vde deel, 2de stuk, 538. Röell to Louis, July 1.
4) Ibid., Vde deel, 1ste stuk, 154. Sérurier to Champagny, June 15.

French agents had received not only the cargoes of the prizes, "but all the other American merchandise which was found in the government storehouses;" [1] yet his explanation apparently did not convince Champagny, for the accusation was not withdrawn.

On July 25 Napoleon gave final directions regarding the disposition of the goods "which the King should have sent to France." He wrote to Le Brun, who had already assumed the office of Lieutenant-General, "My intention is that the goods should be sent to Antwerp, there to be sold. Under no pretext whatsoever do I desire the sale of them at Amsterdam. Therefore take measures to hasten their departure without the least delay." He also asked for a report on the goods which had been handed over to the Dutch merchants, "in order that I may likewise have them sent to Antwerp." [2]

A part of the property of which France thus arbitrarily obtained possession was originally owned by American shippers or by the American captains in whose vessels the goods were brought to Holland. On May 20, Bourne estimated that, at the prices then prevailing, "the American property which has been for about a year, deposited in the public stores," was worth "about 3,000,000 guilders, according to the best calculations which can be made." [3] All of these goods were seized by Napoleon, and Bourne states that the proceeds from their sale were to be deposited in the so-called *bank of amortization.*[4] In what manner Napoleon utilized this sum cannot be stated, but it is certain that during his lifetime the original owners were not compensated for their losses.

The confiscation of over a million dollars' worth of *merchandise* was not the only loss which Americans sustained as a result of Napoleon's political dealings with that country, for he also seized a number of the American *vessels* which had entered Dutch ports prior to the abdication of Louis. On May 12 instructions were given for La Rochefoucauld to demand that "the 21 American vessels and their

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1) Ibid., Vde deel, 2de stuk, 538. Röell to Louis, July 1.

2) Colenbrander, VIde deel, 1ste stuk, 16; Napoleon to be Le-Brun, July 25.

3) *Consular Despatches, Amsterdam,* II.; Bourne to Secretary of State, May 20.

4) *Bourne MSS.;* Bourne to James De Wolf, May 20.

cargoes be delivered to me in execution of the treaty," [1] and the same demand appears in Napoleon's letter to Louis on the same day.[2] Although Napoleon based this demand on the treaty, there is no provision in the treaty itself nor in the secret protocol attached to it that bound Holland to deliver 21 American vessels with their cargoes. Article ten of the treaty, as we have seen, merely called for the delivery of the cargoes of American vessels, not of the vessels themselves. And by article two of the protocol Louis bound himself to have all vessels with contraband goods, which should enter Dutch waters, declared good prize. It is true that this article, unlike that of the treaty, looked to the future, but it is highly improbable that as many as 21 American vessels should have entered between March 16 and May 12; the decree of February 1 had driven them to seek other markets.

Which vessels are here referred to cannot, therefore, be stated; nor is it clear why Napoleon should have demanded the delivery of 21, no more, no less. This much, however, is certain that the demand was an arbitrary one, not justified by any provision of the treaty, that it was not complied with by Louis, and that the total number of American vessels seized by Napoleon after the annexation of Holland did not reach 21.

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Holland remained an administrative province of France until the end of 1813, and during these three and a half years the American flag was very rarely seen in Dutch ports. The enforcement of Napoleon's commercial policy was now entrusted, for the most part, to French officials, who, unlike many of the Dutch officials under Louis, were not connected with commercial houses. The chances of carrying on illicit intercourse with England through official connivance were thus largely eliminated, and the favoritism which had formerly been shown to Americans became a thing of the past. Such trade as was still permissible could be carried on only by licensed vessels, for Napoleon decreed that after the first of August, 1810, "No vessel destined for a foreign port shall leave our ports, unless it be provided with a license signed

1) Rocquain, 270, Note 1; Napoleon to the duke de Bassano.
2) Ibid., 270.

by our hand." When Le Brun asked to be informed whether this applied to foreign vessels as well as to French vessels,[1] Napoleon explained that it included every kind of vessel whatsoever, "with this exception, that I shall grant licenses only to French vessels, and in fact there is none which really is neutral. They are all vessels which violate the blockade and pay ransom to the English . . . . Therefore, foreign vessels cannot trade with our ports nor depart from them, because there are no neutrals." [2] And in March of the following year Napoleon declared, with specific reference to Americans, "Their vessels will not be admitted in my ports until they have declared war against the English. Thanks to the progress of agriculture and chemistry, I shall soon be able to forbid the importation of the various products of the Indies." [3]

This determination to exclude Americans appears to have been departed from in only one instance, as a result of the scarcity of tea in Holland. On October 11, 1811, Montalivet presented Napoleon with a report on the tea trade, from which it appears that the public storehouses were empty and that the private warehouses contained only one-half the amount annually consumed in Holland. Everyone recognized, he states, that the Americans were the only intermediaries to whom recourse could be had in supplying this commodity. His advice was that Americans should be allowed to import tea from the Dutch factory at Canton, upon the payment of certain duties.[4] Napoleon adopted this advice, and on October 19 he announced that special permits would be granted to Dutch or American vessels. These vessels must be laden with tea only, and would be bound to reëxport in silks of French manufacture a value equal to the teas which they should import.[5] How many such permits were issued to American vessels cannot be stated, but the number of tea ships which succeeded in making a safe return from their distant voyage before the downfall of Napoleon must

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1) Colenbrander, VIde deel, 1ste stuk, 55; Le Brun to Napoleon, August 12.

2) Ibid., 60; Nap. to Le Brun, August 20, 1810.

3) Colenbrander, VIde deel, 1ste stuk, 131; Report by an unknown writer of Napoleon's speech at Paris to the Presidents of the Chambers of Commerce and Agriculture, March 24, 1811.

4) Ibid., VIde deel, 1ste stuk, 195-196; Montalivet to Napoleon, October 11.

5) Ibid., 207.

have been insignificant, for as late as January 31, 1813, Bourne reported, "We have had but one satisfactory arrival since nearly two years, and no prospect of a favorable change." [1)]

The main interest of these last three and a half years of French domination therefore lies herein that Americans were practically excluded from all commercial intercourse with Dutch ports. And, needless to say, the Dutch themselves found it even more impossible than in former years to carry on a direct trade of their own with American ports. Not only was the direct trade at a standstill, thus depriving the Dutch of the tobacco, rice, cotton and other productions of the United States, but the Yankee captains lost one of their most profitable sources of income when they were forbidden to act as carriers in supplying the Dutch with the products of the Indies and of other climes. Meanwhile Americans were compelled to forego the use of such luxuries as Dutch cheese and gin, and to seek elsewhere for the sailcloth, the silks, linens, cottons and other wares and manufactures with which Holland had been wont to supply them.

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1) *Consular Despatches, Amsterdam,* II., Bourne to Sec. of State.

CHAPTER V.

The Re-opening of Diplomatic Relations. (1814—1815.)

It was the defeat of Napoleon at the battle of Leipsic, in October, 1813, that enabled the Dutch people to take the first practical steps toward the fulfillment of the long-cherished ideal of reëstablishing their independence and of resuming their place among the family of nations. The news of this defeat occasioned a general uprising, which forced thousands of the much-hated French customs officers, soldiers and administrative officials to flee for safety. In order to put an end to the disorder and confusion which naturally resulted wherever the Imperial authority was overthrown, a number of influential men, among whom Count Van Hogendorp took a leading part, met at The Hague, and on November 20, 1813, proclaimed the establishment of a provisional government. On the following day a delegation, which had been appointed to request the Prince of Orange to return to his ancestral domains and to place himself at the service of his fatherland, arrived at London, where they were enthusiastically welcomed by the British minister of foreign affairs, Lord Castlereagh, and later by the Prince himself. On November 30, the Prince landed at Scheveningen, and a few days later was proclaimed at Amsterdam as William I, sovereign ruler of the Netherlands.

One of the first questions which the new Dutch government was called upon to consider was that of securing recognition abroad, so as to strengthen her position over against France, whose fortunes, though they seemed on a decline after the battle of Leipsic, might at any moment be revived by a successful military engagement. England, the principal enemy of France, saw fit to grant the Prince immediate recognition. In fact, even before the Prince's return, Earl

Clancarty had been appointed as British minister to the government of the Netherlands. The Dutch statesman Jacob Fagel was commissioned to represent the interests of the Prince of Orange at London. With the United States Holland had maintained no diplomatic relations since 1801; but as early as December, 1813, about nine months before the Congress of Vienna met to consider the political reconstruction of Europe, and when the very political existence of Holland still hung in the balance, plans were under way of sending a Dutch minister to Washington. The re-opening of diplomatic relations between the United States and Holland was characterized by a curious interplay of interests, due largely to the close understanding between the Dutch government and that of England.

It was no doubt as a result of this close understanding with England that the Dutch government saw fit to exclude the American consul from the ceremonies held at Amsterdam in honor of the Prince's return. Van Hogendorp, the acting minister of Foreign Affairs, when pressed for an explanation, merely replied that he had deemed it his duty, under the circumstances, to act thus. Bourne thereupon, in a formal note, requested to be informed whether the existing government still considered the treaty of October 8, 1782, between Holland and the United States, to be in full force, and whether American merchants were free to trade with Holland in conformity with the conditions made in that treaty.[1)]

Bourne's request placed the Dutch government in a rather difficult situation, for the treaty of 1782 was based on the fact that Holland was then at enmity with England and was acting in coöperation with France. Now the political situation was in so far reversed that England was the friend of Holland and her protector against France. Moreover, in 1813, as well as in 1782, England was at war with the United States, and this fact was certain to influence the future commercial relations between the United States and Holland. It appears from Castlereagh's despatch to Clancarty, on December 21, that Van Hogendorp, before venturing a reply to Bourne's questions, consulted the wishes of the British government.

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1) *Consular Despatches, Amsterdam,* II. Bourne to Sec. of State, December 10, 1813.

In this despatch Castlereagh writes that Fagel, "in an interview which I had with him yesterday morning, stated to me that he had received instructions from his government to ascertain the sentiments of the Prince Regent's government with respect to the degree in which our hostilities with the United States of America should influence the relations between that country and the United Provinces." Castlereagh assured Fagel that the British government did not wish to influence the Prince of Orange in this matter, and "that we thought it of the highest importance for the success of the great cause, which the Dutch people have asserted, that they should be at liberty to direct all their energies against the common enemy on the continent."

"The other point," continues Castlereagh, "on which M. de Fagel was instructed to learn our opinion was the question of acknowledging the present American agent, and the existence of the treaty of 1782." On this point Castlereagh expressed the opinion that both the treaty and the commission of the American consul "have fallen to the ground by the dissolution of the late government of Holland and the restoration of the Prince of Orange . . . . A new treaty must be made with the United States and new agents re-accredited on both sides before the relations of amity, though not interrupted in practice, can be restored in form." Holland should therefore not delay in adopting a policy which would insure the speedy recognition of the Prince's sovereignty by the United States.[1]

Clancarty lost no time in communicating these views to Van Hogendorp, who agreed that the treaty no longer existed, but who nevertheless wished to know, so Clancarty reported on December 29,[2] "whether it would be objectionable to recognize the American agent as consul, with a view at once to renew commercial intercourse with that country; . . . . and to establish a permanent good disposition between the two nations." Clancarty replied that it was by no means the wish of the British government that the Dutch should be prevented from a free commercial intercourse with the unblockaded ports of the United States, and that the provisional recognition of the American consul would not, in his opinion, be objected to; but that "it did appear to me

1) London, *Foreign Office*, $\frac{37}{65}$
2) Ibid., $\frac{37}{65}$

essential in the very first instance, that no time should be lost in despatching a person, properly accredited, to the American government, for the purpose of ascertaining . . . whether that state was immediately prepared to recognize His Royal Highness the Prince of Orange . . . ." In the meanwhile anything more than a provisional recognition of the American consul would compromise the dignity of the Prince.

Van Hogendorp, acting on this advice, wrote to Bourne that the king would solemnly announce his advent to the throne to the American government, and would meanwhile recognize him as the American consul, on the same footing as all other consuls, which, he says, "for the moment re-establishes our commercial relations. As for the political connections between the two countries, you see that this will depend upon yours, and that we shall await its official response to our communication." He then informed Bourne that the Dutch government could no longer recognize the treaty of 1782, of which he nevertheless requested an authentic copy, in order to determine whether it might form the basis of a new treaty, and closed with an expression of his esteem for the nation which he had visited in his youth.[1] Upon reading the treaty, Van Hogendorp appears to have adopted the opinion of Castlereagh as his own, for he wrote to King William on January 1, "I am engaged in reading the treaty of 1782, and find the same unsuited for these times." [2]

From the facts given above it is clear that Castlereagh not only deemed it to England's advantage that Holland should no longer consider herself bound by the treaty of 1782, but that he was also anxious to have the Dutch government represented at Washington by an accredited minister as soon as possible. In this last matter, as well as in regard to the validity of the treaty, the Dutch government allowed its policy to be shaped by England. But this difference should be noted: in the one case the Dutch government *expressly sought* the advice of England; in the other case the British ministry took the initiative and gave its advice unsought. It is doubtful whether the Dutch government of its own

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1) *Consular Despatches, Amsterdam,* II., Van Hogendorp to Bourne, December 26, 1813.

2) *Brieven en Gedenkschriften van Gijsbert Karel Van Hogendorp,* V., 216.

accord, and uninfluenced by England, would have made any haste in appointing a minister to the United States. But when Van Hogendorp learned from Clancarty that England deemed it "essential in the very first instance that no time be lost," he at once set about finding a suitable person for this mission. On January 4, 1814, Bourne was able to report, "I am now duly authorized to inform you that it is the intention of this government to send out shortly a minister to the United States, on whose arrival our government will be fully advised to the several views and plans that may be comprised in the object of his mission, and to decide on that reciprocity of measures which it may be proper to adopt in regard to our connections with this country, political and commercial." [1]

That England, in urging Holland to adopt this course of action, was prompted purely by motives of disinterested friendship, is entirely improbable. What England's ulterior motives may have been is doubtful, but it can easily be seen that by securing for her protégé the recognition of the American government she would strengthen her own position against France, by effectually preventing a possible understanding or alliance between both of her enemies, Napoleon and the United States. Van Hogendorp in after years confided to his memoirs, "I thought that England by our means desired to make peace; but Earl Clancarty denied every intention of this nature. Neither the Prince nor myself could guess the motives for the haste which the English made of this work. I could not but think that they set great store upon our becoming generally recognized, and that they foresaw that this would be no easy matter with the Americans." [2]

A proposal which Bourne submitted to Van Hogendorp in January, 1814, without the sanction or knowledge of his own government, appears likewise to have been based on the belief that England desired to make use of the good offices of the Dutch government in bringing about peace with the United States. Clancarty, whose report to Castlereagh is, unfortunately, the only source of information as to the

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[1] *Consular Despatches, Amsterdam,* II., Bourne to Sec. Smith.

[2] Van Hogendorp, *Brieven en Gedenkschriften,* V., 76-77, geheime aanteekeningen. This part of his Memoirs was written at sometime between March, 1817 and October, 1820.

nature of the proposal,[1] tells how Van Hogendorp solicited an interview with him on the afternoon of January 16, and acquainted him with the contents of two confidential letters from Bourne, dated January 14 and 15. "The substance of the letters," says Clancarty, "which are expressly stated by the writer to be unofficial, is a professed desire on his part to see the early establishment of peace between Great Britain and the United States." Bourne then pointed out the advantages which the Dutch government would acquire from the establishment of peace, and sought to make clear that it would be to its own interest to act as mediator. The Hague, in his estimation, would be the best place for negotiations, and he announced that the commissioners appointed by the American government might soon be expected to arrive at that place on their way from Russia.

Van Hogendorp then requested Clancarty's opinion on this proposal and was advised that "no action save a cautious acknowledgment could be taken towards a note so manifestly unofficial, from a minor commercial agent only provisionally recognized as the agent of a government which had not even recognized the present Dutch government." Furthermore, Clancarty maintained that the issue between the two belligerents "was not one for mediation," because the United States "had thought proper to call in question our right to the allegiance of our own subjects, and upon this point to wage war upon us." Should the persons designating themselves American Commissioners arrive, "they could not only be received as simple individuals, the subjects of a state with which this government was desirous of maintaining relations of amity, but in no respect in any public capacity." "With these views," Clancarty concluded, "Van Hogendorp quite agreed, showing throughout a manifest desire to respect and even please the wishes" of England.

In spite of the fact that Clancarty gave no encouragement to Bourne's proposal, the idea of acting as mediator between the two belligerents seems to have appealed to the Dutch government. It is referred to in a memorandum drafted by Baron de Nijevelt, an official connected with the

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[1] London, *Foreign Office*, $\frac{37}{87}$ Clancarty to Castlereagh, January 16, 1814. The letters of Bourne referred to by Clancarty have not been found in the Dutch archives and no copies exist among the Bourne Papers, or the Consular Despatches.

foreign office, which sets forth certain considerations by which this government should be guided in its relations with the United States. In this memorandum,[1] which reads much like a proposed set of instructions for some person about to be sent on a mission to Washington, the writer says that it would be prudent for his government to decide what purpose the minister to the United States ought to keep in view, and in case the United States should remain at war with England, to stipulate whether he should favor the British or the Anti-British party in America, and whether his status as the minister of a neutral power might authorize him "à se mettre entre les deux êtats dissidents, pour tâcher de les ramener à l'union et à le paix." The rest of the memorandum discusses the course of action which the Dutch minister ought to pursue, if upon his arrival peace had already been declared. In that case the writer believes he should be authorized to attach himself to the "English party," unless by doing so he should fail entirely in the main object of his mission—that of concluding a new treaty of amity and commerce.

The person chosen for the mission was F. D. Changuion, who is characterized by Bourne as "an intelligent, amiable man, plain in his manners, without pretentions and in general esteem here." [2] Though he had been appointed before the middle of January,[3] he was unable to make his departure, on account of the ice, until the end of May. About the first of August he arrived at Boston, where a "brilliant reception" was accorded him by a citizens' committee, which had been appointed for this purpose. There were addresses of welcome by this committee and universal rejoicings on the part of the townsfolk.[4] In order to put an end to the rumors which were current, he deemed it prudent, before leaving Boston, to insert an article in the newspapers, which was intended to inform the American public that he had not come to this country in the character of mediator between the United States and England.[5]

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1) Rijks-Archief, *Buitenlandsche Zaken, Amerikaansche Legatie,* Registre 3, No. 2-A-4. The memorandum bears no date.

2) *Consular Despatches, Amst.,* II., Bourne to Secr. Smith, Feb. 28, 1814.

3) Clancarty mentions his appointment in his despatch of Jan. 16.

4) Rijks-Archief, *Buitenlandsche Zaken, Amerikaansche Legatie,* Registre 2. Changuion to Nagell, despatch No. 1, Boston, August 4.

5) Enclosed in his despatch of August 4. No. 2-A-6.

The notables of the various cities and villages through which he passed, on his journey overland from Boston, honored him with speeches and receptions. He entered Springfield amid the booming of cannon and shouts of *Oranje boven* on the part of the multitude which turned out to greet him, while a guard of honor, consisting of twenty youths on horseback, was appointed to escort him to the government arsenal.[1] Before his arrival at New York, be became convinced that public sentiment in this country was more strongly in favor of Holland than he had been led to suppose; he was pleased to learn that in the series of public dinners and celebrations which had been held to commemorate the emancipation of Europe from the tyranny of Napoleon, many a toast had been offered to the Kingdom of the Netherlands.[2] At New York, where he arrived late in August, his reception was not as enthusiastic as elsewhere, which he ascribed to the proximity of the enemy, and to the fact that many of the notables were absent from the city, while the citizens themselves were busied with the problem of defense. Owing to the operations of the British in the vicinity of Washington, he deemed it advisable to remain at New York for several weeks.[3]

From there he proceeded overland to Washington, and on September 24 he had the satisfaction of being received by President Madison as the representative of a sovereign and independent nation. On the following day he held his first interview with Secretary Monroe, whom he informed of the King's desire to negotiate a new treaty on the basis of perfect reciprocity.[4] During the course of the next six months a few notes were exchanged between Changuion and Monroe on the subject of treaty renewal, but on April 12, 1815 the American government put an end to the discussions, for the reason that Changuion had not been clothed with full

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[1] R. A., *Buitenl. Zaken, Amerik. Legatie,* Registre 2. Changuion to Nagell, despatch No. 2, New York, August 28.

[2] At a dinner held at Philadelphia, July 3, 1814, this toast was offered: "The United Netherlands, early and faithful friend of the United States—may their power by sea and land be established upon its ancient foundation." *Amer. Daily Advertiser,* July 4, 1814. Changuion, in his despatches of August 4 and 28, refers to the celebrations at Boston and New York. See also McMaster, *History of the People of the United States,* IV., 225.

[3] Rijks-Archief, *Buitenl. Zaken, Amerik. Legatie,* Registre 2. Changuion to Nagell, August 28.

[4] R. A., Ibid., Registre 2, despatch No. 5, New York, Oct. 18.

powers to conclude a treaty.[1] The Dutch government later in the year explained that Changuion's proposal, though not contrary to the tenor of his instructions, perhaps arose "from a personal wish . . . . to be concerned in the conclusion of such a treaty."[2]

It appears, therefore, that the principal object of Changuion's mission was to secure official recognition for his government, and not to negotiate a new commercial treaty. This view is strengthened by the early recall of Changuion and by the explanations which the Dutch government gave for this action. He was recalled before the end of December, 1814,[3] which was about two months before the date of his first note to Monroe, but sufficiently early, nevertheless, to have enabled the Dutch government to receive his despatch of October 18, in which he makes mention of his favorable reception at Washington. In August, 1815, the Dutch Secretary of Foreign Affairs, Baron Nagell, stated that he had been recalled to fill the post of ambassador to Constantinople.[4] This was a higher diplomatic office than the one he had held at Washington, where he ranked as minister-plenipotentiary. On the first of May, 1816, however, Changuion was still in the Netherlands, and on that date Nagell intimated that his recall had been due to the financial embarrassments of the Dutch government and to the desire of the ministry to keep the budget as low as possible. He had been granted a stipend of £1500, but had requested an additional £5,000. Rather than grant this request, says Nagell, the king had replaced him by a chargé d'affairs.[5]

Meanwhile the President had nominated as minister to the Kingdom of the Netherlands William Eustis, a physician of Cambridge, Massachusetts, who had served several terms in the State Legislature and in Congress. His nomination was confirmed by the Senate in December, 1814. Early in June, Eustis set sail from Boston, and he disembarked at

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1) *Notes from the Secretary of State to Foreign Legations,* Vol. II., 117, (Washington, State Department).

2) *Despatches, Netherlands,* vol. V. (State Department) Eustis to Monroe, August 11, 1815. The original instructions to Changuion have not been found.

3) *Consular Despatches, Amsterdam,* II., Bourne to Secretary Smith, December 22, 1814.

4) *Despatches, Netherlands,* vol. V. Eustis to Monroe, Aug. 11.

5) *Despatches, Netherlands,* vol. V., Eustis to Monroe, May 1, 1816.

Flushing on July 12. Neither here nor at the commercial city of Rotterdam, whither he was conveyed in the Admiral's yacht, was there any show of popular enthusiasm. Eustis merely notes "the polite attention of the admirals and other naval officers at Flushing to the American flag and to the American minister." [1] He arrived at The Hague on the 15th of July, almost a year after Changuion had landed at Boston.

In his instructions,[2] written at a time when the whole of Europe was once more in turmoil as a result of Napoleon's sudden return to power, Eustis was told that one of his most important duties would be "the protection of our commerce, by securing to it its rights, under the law of nations and the laws of the United Netherlands." Should a general European war break out, he was to guard against the abuse of our flag and of our national character "by the subjects of other powers who may assume it for fraudulent purposes." It is evident, from this part of his instructions, that what the American government most feared from Napoleon's return was a renewal of the French Decrees and British Orders, with all the injuries which these had entailed on American commerce. That danger was, happily, averted by the final overthrow of Napoleon at Waterloo, about a month before Eustis arrived at The Hague. The duty of securing to our commerce its rights under International Law did not, therefore, prove to be an onerous one.

Another duty assigned to him, as well as to his successors, and one which materially increased the volume of their despatches, was that of keeping the State Department informed of such occurrences in Europe as were likely to affect American interests. He was also instructed to make known the sincere desire of the President to promote an active commerce with the Netherlands, and, finally, he was to make it clear that the United States expected its citizens to be compensated for the great injury they had suffered in Holland in recent years, "by the unwarrantable seizure, destruction and even confiscation" of their property. "For these acts," says Monroe, "there were in many instances

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1) Ibid., vol. V., Eustis to Monroe, July 16, 1815.

2) *Instructions to Ministers of the United States in Europe*, vol. VII., May 9, 1815, (State Department, Washington.)

not the slightest pretext, and in many, if not in all, no justifiable cause."

This last matter, that of spoliation claims, must be the first to demand our attention, because it is one which logically grew out of our relations with Holland in the years immediately preceding the re-opening of a regular diplomatic intercourse.

CHAPTER VI.

The Spoliation Claims Against Holland.

The essential facts which gave rise to the spoliation claims against Holland have already been discussed in Chapters III. and IV. It will here suffice to state that the American government sought to obtain an indemnity for the losses sustained by American citizens in Holland, through the confiscation of their merchandise or of their vessels. In reality there were therefore two kinds or classes of claims, both of them arising out of the operation of the Continental System. But is is only those of the first class,—for the merchandise—which figure prominently in the correspondence, while those for the vessels are scarcely mentioned. This was possibly due to the fact that the government was in possession of more accurate data relating to the merchandise. As early as August, 1809, Bourne had begun the practice of sending our circular letters to "merchants in the American line of trade," and by this means his office had obtained "correct notes of the merchandise thus confiscated, containing invoice value, and the names and place of residence of the proprietors.[1)] No such accurate data appears to have been kept in regard to the vessels,[2)] and the

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1) A copy of such a circular, dated August 15, 1809, is found among the *Bourne Mms.*

2) The only information I found is a report which the Sec. of State submitted as late as Jan. 30, 1827, in response to a resolution of the House, May 19, 1826, (*Am. State Papers, Foreign,* VI., 384 and 498-500.) It is doubtful whether this report is accurate or complete, for by that time some of the original claimants had died. It contains a list of 11 vessels, some of which were captured by French Privateers; two others are mentioned in the diplomatic correspondence. Four of those given in the list were later released by the Dutch government; of the remaining seven, *only one,* the St. Michael, is specifically mentioned as having been sold by France. But even this is questionable....See note 1, page 121.

number which were confiscated is not given in the correspondence on the subject.

An idea prevailed among American merchants, and was shared by the government, that a part of this confiscated property had remained in Holland since 1810, without being disposed of by Napoleon. But Eustis informed Monroe that it had all been sold and the proceeds deposited in the French treasury.[1)]

In his first note to Nagell dealing with the subject of claims, Eustis contented himself with a brief, but accurate, statement of the facts, and with a reference to the legal principles on which the claims were justified, which he summed up in these few words: "that nations are responsible for the acts of their rulers, and that changes in government cannot diminish the force of obligations and contracts." [2)] Nagell's reply indicated that the Dutch government not only wished to wash its hands of the matter, but also absolved the government of King Louis of all responsibility. The king, replied Nagell, was of the opinion that the principle on which indemnity was claimed was "inadmissible in general," and that it was certainly inapplicable to this particular case, for, in committing these acts, Louis had yielded to overwhelming force on the part of France. If the principle held good at all, the claims should be prosecuted against the government of France.[3)]

Eustis, in his note of October 29,[4)] explained that the ground on which the claims were presented was misunderstood. They were not presented on the ground that "the measures which decided the fate of the cargoes in question

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[1)] *Despatches, Netherlands,* vol. V., Eustis to Monroe, Sept. 9, 1815. There was at least one exception to this statement, as appears from Baeker's letter to Bourne, December 20, 1814, (*Bourne Mms.*) "The brig *St. Michael*", he writes, "has never been condemned by any court whatever. She was taken possession of under the reign of Louis Napoleon, and remained undecided till Holland got liberated from France. I applied to the present government to have her returned and they gave her up."

[2)] *Despatches, Netherlands,* V., Eustis to Nagell, August 22, 1815. Copies or translations of the notes exchanged with the Gov. of the Netherlands on this subject were sent home with the despatches of our ministers at The Hague. Because of the disorganized condition of the Dutch archives covering this period, I have found it more convenient to refer to the material found in the State Dept. at Washington.

[3)] Ibid., V., Nagell to Eustis, October 17, 1815.

[4)] Ibid., V.

were an act of violence, extorted by France from the government of Holland," but because "the seizure and confiscation were the act and deed of the government of Holland. Whether the proceeds were converted to the immediate use of the government, or transferred for any consideration whatsoever to another power, it was not for the claimants to inquire. The government of Holland had taken their property, and to the government of Holland they looked for redress." After thus proving, to his own satisfaction at least, that the government of Holland, not that of France, was responsible for the confiscation of American property, and that this government would have been under obligation to make compensation, had its existence been prolonged, Eustis then states that the only question now remaining was whether the present government of King William I. had succeeded to this obligation. And he answers this question by saying that this principle was too long established to admit of doubt, and that acts of violence such as these in question could not be regarded as exceptions to the general rule.

But the Dutch government was not to be convinced by this line of reasoning. Nagell, in his reply, again attacked the validity of the general principle that "every government which succeeds another succeeds also to the obligations of the preceding government." This principle, he argued, was not universally applicable, but was subject to qualification. With a continuous succession of legitimate governments it might be beyond dispute: but when as actually happened in this case, "a legitimate government is dispossessed by an illegal government, established by violence," and when other powers continued their relations with this illegal government, and allowed their citizens to be exposed to injustice, the principle could no longer be applied. The United States should have sought redress at the time from the French government and could not rightly present its claims to the reëstablished legitimate government of King William I.[1)]

After this preliminary exchange of views the matter was allowed to rest for some eight months; Eustis did not renew the demand until he had received Monroe's instructions to that effect of May 20, 1816.[2)] Monroe informed him that

1) Ibid., V., Nagell to Eustis, Nov. 8, 1815.
2) *Instructions, Europe,* vol. VIII., p. 60.

Adams was charged with a special mission to Naples to obtain indemnity for the seizure of vessels there in 1809, that Gallatin was charged to make a similar demand upon France, and Russell upon Sweden. "From these measures taken with other powers," he says, "you will see the propriety of renewing your application . . . . for a similar indemnity." Monroe insisted that the claims were founded on "principles universally recognized, and which have existed through all ages." He then instructs Eustis to say that the government of Holland, which made the seizures, "was in full possession of the sovereignty of the nation and exercised all the rights appertaining to it; it was acknowledged by other powers, to many of whom it sent ministers, and received others in return. The government *de facto* of any country is the competent government for all public purposes."

Eustis, who was not gifted with a high degree of originality, was content to give an almost verbatim repetition of Monroe's language, and then expressed the hope that, in view of the justice of the claims and the indisputable authority of the principle, the discussion would this time be more satisfactory.[1] He did, it is true, cite two specific instances as examples of the nature of the acts for which the American government sought redress,[2] but this evidence neither served to reënforce his argument nor to throw any new light on the principles involved. The immediate point in dispute was now whether or not the government of King Louis was, at the time the seizures were made the *de facto government* of Holland. The Dutch government, for obvious reasons, maintained that the Emperor of France, and not his brother Louis, had been the actual sovereign at the time.[3]

Eustis was at length compelled to descend from the general to the particular and to submit some of the historical facts on which the American contention rested. In his last note on this subject,[4] he pointed out that Louis had maintained diplomatic relations with other countries like any other sovereign, independent ruler, and that the treaty of

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[1] *Despatches Netherlands,* V., Eustis to Nagell, July 4, 1816.

[2] The case of the *Bacchus* and the *Baltimore.* These are not given in Secretary Clay's report referred to on page 120, note 2.

[3] *Despatches, Netherlands,* V., Nagell to Eustis, August 14, 1816.

[4] Ibid., V., Eustis to Nagell, September 25, 1816.

March, 1810, was an act of sovereignty and bore no evidence of having been extorted by force. The occupation of Amsterdam by French troops, the abdication of Louis and the annexation of Holland to France had all taken place in July, 1810; "whereas the order for depositing the property in the public stores was issued by the then King of Holland in the spring of 1809; the cargoes were generally so deposited in the course of that year, two of them in the winter and spring of 1810, and the whole of them . . . . were transferred to France by virtue of the treaty of March, 1810."

The Dutch government made no reply to this note and it was almost a year and a half later before the discussion was renewed. Meanwhile in the United States, a new administration had been inaugurated; Monroe had become President and John Quincy Adams had succeeded him as Secretary of State. Eustis meanwhile had also been recalled, not because of his lack of success in the matter of claims, but because of the failure of the Dutch government to appoint a representative at Washington who was his equal in rank. His successor was Alexander H. Everett, who, besides having read law in the office of John Quincy Adams, had been a member of Adam's diplomatic household on the latter's mission to St. Petersburg in 1809. In 1816 he had served for a short time as attaché to the American legation at The Hague; he was now raised to the rank of chargé.

Everett began his mission by pressing the claims with much less moderation than Eustis had shown. The language which he used in his first note[1] was not only firm, but in places almost insulting. He accused the Dutch government of having "violated the duties of hospitality and justice," and of having "exhibited a total want of those sentiments of self-respect and common humanity that may often be found among the most barbarous nations." In proof of this accusation he stated the facts relating to the cargoes of the *Bacchus* and the *Baltimore,* much as Eustis had already given them, and, as stronger evidence still, he cited the case of the *St. Michael,* whose cargo had been sequestered after the vessel had entered Amsterdam in distress. "Thus at

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1) Ibid., VI., Everett to Nagell, February 22, 1819.

present," he continued, "and on the territory of one of the first maritime nations of Europe, the wrecks of friendly vessels were plundered under the public authority of the country:—a description of violence not unknown, perhaps, to the piratical inhabitants of the Northern waste of Europe in the dark ages, but altogether unheard of as the acts of a civilized community." These acts were "breaches of a solemn and positive contract, as well as outrages upon justice, hospitality and common humanity, and the present government inherited, together with the obligation to observe the treaty which descended to it . . . . also the obligation to repair it where it has been broken." He cited precedents and quoted extensively from the writings of Grotius and Puffendorf, to support the general principles of International Law on which the American government had based the claims since the beginning of the controversy. In conclusion he states, "that the claims though pursued with moderation and forbearance, can never be abandoned or relinquished."

The Dutch government had not expected that the controversy would be re-opened. The King had hoped, Nagell replied on June 14, 1819,[1] "that the government of the United States would be satisfied with the answers given to the applications of Mr. Eustis;" and since Everett's note was merely an elaboration of the same principles and arguments which Eustis had advanced, the government of the Netherlands might have limited itself to a simple repetition of its former replies; but the king desired to give a new evidence of his esteem, and had therefore ordered him to restate the facts with great clarity and to analyze Everett's arguments in detail.

In this note of June 14, and the one of November 4, we have the ablest refutation of the arguments of the American government, and the clearest discussion of the merits of the controversy. The fundamental question at issue was still whether the government of Holland or of France should be held responsible for the confiscation of American property. The Dutch government could, of course, not deny that the decrees of March 31, of June 30 and July 29, 1809, were issued in Louis' name, that the cargoes of American vessels were sequestered, that is, stored for safekeeping in

1) Ibid., VI.

the royal warehouses, by the king's officers acting in his name, and that the treaty of March, 1810, had been concluded while Louis was still king of Holland; but it refused for a moment to concede that Louis should be held responsible for these acts. Nagell maintained, and rightly so, that if Louis had taken measures hostile to the United States, he had not done so with malice aforethought, but that he had merely been the unwilling instrument of Napoleon's tyranny, and that the treaty itself had been forced upon him at a time when he was a prisoner in the hands of the Emperor.[1)]

Needless to say, these statements made in palliation of Louis' conduct were not mere diplomatic subterfuges; they can be substantiated by an abundance of historical proof. It was a matter of common notoriety, also in the United States and among the merchants who still ventured to trade with Holland at the time, that Louis was king in name only, and that Napoleon dealt with his kingdom much as though it were one of the Departments of France. The American government realized full well that the treaty had been a mere form and that it was in substance equivalent to an Imperial decree, but it stubbornly maintained that none of these facts detracted from the justice of the claims. It refused to look into the motives for Louis' acts, and stood its ground in defense of the more or less abstract principle that a nation is answerable for the acts of its government. Adams, in his instructions to Everett, had gone so far as to say: "However frequent the instances of departure from this principle may be in point of fact, it cannot with any color of reason be contested in right." [2)]

It was also well known to the American government that Holland had not derived the least benefit, financial or otherwise, from the confiscation of American property, and that the treaty had not availed to prolong Louis' reign, but had rather served to hasten the annexation of Holland to France. Nevertheless Everett, when confronted with these well-

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[1)] *American State Papers, Foreign Relations,* V., 615-620, Nagell to Everett, Nov. 4, 1819. The material for the period between August 20, 1819 and Sept. 1, 1822, is missing from the files of the State Department.

[2)] *Instructions, Europe,* vol. VIII., p. 241-242, August 10, 1818.

established facts, was not in the least disconcerted; on the contrary, he sought to prove that Holland had benefited from the 10th article of the treaty. "More probably," he argued, "a regard for what he thought the public good induced king Louis to agree to this measure, as a less evil rather than expose himself to a greater. He appropriated to the public service a certain amount of property belonging to individuals, to avoid some important mischief with which the body politic was threatened in the event of his refusal. Perhaps the existence of the nation could only have been preserved on this condition. This, then, was private property taken for the public service; and this is one of the cases in which the obligation of indemnity is most strongly insisted on by the writers on public law." [1]

Equally true, though perhaps not so well known to the American government, were the facts which Nagell submitted to prove that "properly speaking, it was *not* the treaty of 1810," but the annexation of Holland to France which had placed the American cargoes in the power of the French. "Numerous proofs exist," he writes, "that Louis, up to the moment of his abdication, was engaged in devising means of securing the American cargoes to their owners." The king had even consulted with respectable mercantile houses on this subject, and these were forced to confess "that all things considered, in the given circumstances sequestration was the best precaution." "The archives for the years 1809-'10 are filled with complaints and threats of the French ambassador on the manner in which Louis evaded the wishes of Bonaparte, and favored American vessels." "Finally, a circumstance of the highest importance has been established by authentic documents; namely, that as a result of the precautions of king Louis, nearly all the cargoes were found in the warehouses *still untouched* (encore en entier) *after* the king's abdication." And not only had the annexation of Holland abrogated the treaty, but the government of Holland had actually ceased to exist even in name when the confiscation of American property was effected." [2]

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[1] *Despatches, Netherlands,* VI., Everett to Nagell, July 15, 1819.

[2] *American State Papers, Foreign,* V., 615-620, Nagell to Everett, November 4, 1819.

Everett was evidently impressed by this array of facts. He now sought to elicit from Nagell an acknowledgment that at least a part of the cargoes had been delivered to France before the union, and by virtue of the treaty.[1] But Nagell refused to make a categorical statement to that effect.[2]

In fact, the Dutch government was tiring of the controversy, and early in 1820 it requested that the discussion be discontinued. The American government complied with this request, and the last word on the subject of spoliation claims, in so far as this subject had any bearing on our relations with the Netherlands, is to be found in the instructions to Everett, on May 26, 1820, where John Quincy Adams writes: "On taking leave, Viscount de Quabeck, under instructions from his government, intimated verbally to me their wish that the discussion should not be further pressed, and although he was distinctly informed that the rights of our citizens to indemnity for injuries so unjustifiable and flagrant could not be abandoned, the President believes that it may be expedient to forbear renewing the applications in their behalf for the present." [3]

The government of the Netherlands later enjoyed the satisfaction of learning that the United States complied with the suggestion which Nagell had made in his first reply to Eustis. Shortly after the claims were abandoned, as demands against the Netherlands, they were merged into those which were then pending against France. Under the Convention of July 4, 1831, France agreed to indemnify American citizens for losses incurred by the acts of Napoleon. To carry this Convention into effect, President Jackson appointed three Commissioners, who sat at Washington and examined all the papers relating to the claims. In the award of this commission the cargoes confiscated by France, under the treaty with Holland, were valued at $536,907.01.[4]

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1) Ibid., V., 621. Everett to Nagell, November 10.
2) Ibid., V., 622. Nagell to Everett, December 9.
3) *American State Papers, Foreign Relations,* V., 629.
4) The report of the commission is given in *House Exec. Documents,* 24th Congress, 1st session, No. 117.
See also Moore, *Digest of International Law,* I., 252-54, and Moore, *International Arbitrations,* V., 445-8 et. seq.

CHAPTER VII.

The Establishment of Trade Relations on a Basis of Partial Reciprocity.

A second important question, and one which called for a more immediate decision on the part of the respective governments, was that of deciding on the policy which each should pursue in regulating the commercial intercourse between their subjects.

In the years when her colonial and commercial policy were dictated by France, Holland had seen her colonial possessions taken over, one after another, by England, and had seen her mercantile marine dwindle away under the restrictions which Napoleon had imposed on her maritime trade. After the return of peace, however, the greater part of her former colonial empire was restored to her. England retained only a fragment, and for the loss of this fragment Holland was partially compensated by the acquisition of Belgium. Her coast-line in Europe was thus extended so as to include the important port of Antwerp. For the first time in many years the Dutch were now permitted to trade with their own colonies and with other countries, and were at liberty to open their own ports on conditions which they themselves should determine. And this sudden liberation of trade necessitated the adoption of a new general policy of trade and navigation.

The United States was in somewhat the same situation, for the European wars and our own war against England had affected our trade relations in a number of ways. The problem before the American government was well expressed by Monroe, in a communication to Changuion. "The treaties between the United States and some of the powers of Europe having been annulled by causes proceeding from the state of Europe for some time past, and other treaties having expired, the United States have now to form their system of commercial intercourse with every power, as it

were, at the same time." [1] It took some three years before both countries reached even a tentative agreement on this matter.

Although Holland had proclaimed its independence in November, 1813, it was about a year and a half later before trade between the United States and the Netherlands showed any signs of revival. In 1814 American vessels were forced to remain at home, for throughout the year the British fleet continued to harry our Eastern coast, and in 1815, after the treaty of Ghent had put an end to our hostilities with England, our first trade operations were necessarily somewhat experimental in character. Some of the old and well-known firms in this country, which had done a thriving business with Holland in the prosperous years before 1807, had either been ruined entirely or had suffered such severe losses that they were unable to set up anew in foreign trade; others, which had survived, had been forced to break off their former relations with Holland and had meanwhile sought new customers elsewhere. In 1815, therefore, new trade connections had to be sought on both sides. American shippers had to find new agents and consignees in Holland to dispose of their goods, while Dutch merchants had to solicit consignments from American business houses with which they had had no previous dealings. It required time to renew business acquaintances.[2] Toward the end of April, 1815,

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[1] *State Department, Notes to Foreign Legations,* vol. II., p. 117. April 12, 1815.

[2] The firm of Wm. Taylor of Baltimore was one of those which suffered from the war. In August, 1815, Taylor wrote to Bourne: "The embargo and war have placed me so much in the back ground, that I am not able to resume my standing again in the commercial world." (*Taylor Mms.*) Their former agent at Amsterdam, T. H. Backer, now entered into the employ of Ellis and Allen, of Richmond, Virginia, a firm which before 1815 appears to have had no dealings with Holland. Early in 1813 Bourne had pointed out the difficulty of re-establishing trade connections. In 1815, with the object of forming new business acquaintances for himself and several Dutch firms, he made preparations for spending a summer in the Northern and Middle States and a winter in the South, (*Bourne Mms.* B. to Higgenbottom, Jan. 1, 1813; to Taylor, Oct. 1815). Illness prevented him from making his journey, but his purpose was accomplished equally well, perhaps, by the circulars sent out by Dutch firms, informing Americans of the state of the market and soliciting shipments. Among the *Ellis and Allen Papers* are a number of circulars, some in printed form, from houses at Amsterdam, Rotterdam and Antwerp.

Bourne wrote that "not a *single vessel* of any kind has yet arrived which left America after the ratification of peace by our government." [1] And as late as August our consul at Rotterdam complained that "the American business to this country is not very brilliant at this moment." [2]

The Dutch at first had few vessels to spare for the American trade. It took years to build up a mercantile marine, and it was but natural that they should first seek to renew trade with their colonies. But they encouraged Americans to obtain their return cargoes at a Dutch port, and to make this possible, they strove to make their country once more a centre of distribution for the productions and manufactures of Northern and Middle Europe and of the Mediterranean. This was all the more necessary, because a number of Dutch commodities no longer found a favorable market in the United States. The Dutch chargé at Washington pointed out, in 1815,[3] that as a result of the difficulty of obtaining liquors from Europe during the wars, and of regularly exporting our wheat and corn, the number of whiskey distilleries had so increased that the American people had lost the taste of gin and brandy. The process of cheese making in this country had been perfected, and the manufacture of drabs had been pushed to such an extent as to make importation from Holland useless. Wool growing and manufacturing had also increased and linens could be obtained more cheaply from Ireland than from Holland. As a result of this state of things the balance of trade remained for a considerable period in our favor,[4] and this fact in turn gave rise to a feeling of jealousy, and even of antipathy, among the Dutch which lasted almost a generation.

Even before the re-opening of diplomatic relations the Dutch foresaw that for many years to come they would not

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1) *Wm. Taylor Mms.* Bourne to Taylor, April 22, 1815.

2) *Bourne Mms.* G. R. Curtis to Bourne, August 13, 1815.

3) R. A., *Buitenl. Zaken, Amerik. Legatie.* Dossier B., 26. Ten Cate to Monroe—no date, but before Aug. 1st, 1815.

4) In 1814 no less than 500 Dutch vessels passed through the Sound, but in 1815 only 10 sailed for the U. S. (according to an official report of Director General of Customs, July 25, 1816. R. A. Dossier B., 26). In 1815 there were 82 American vessels at Amsterdam alone (R. A. *Collectie Goldberg,* vol. 208). For the year ending Sept. 1, 1816, 150 entered the ports of Amsterdam, Rotterdam and Antwerp. (*Despatches, Netherlands,* V., Eustis to Monroe, October 18, 1816.)

be in a position to compete with Americans in the direct trade between the two countries. But to make the trade as profitable as possible under existing circumstances, they greatly desired to have the American government abolish or lower its import duties on Dutch merchandise. This would assure them a somewhat more favorable market in the United States, whether their goods were imported in Dutch or in American vessels. And Changuion was urged, by various commercial and manufacturing cities with which he consulted before setting out on his mission, to secure a concession of this kind from the American government.[1)]

It has been noted that the Dutch government, in 1814, took the view that the treaty of 1782 could no longer be considered as valid. Changuion, after his arrival at Washington, proposed to Monroe that this treaty should be taken as the basis of a new treaty of amity and commerce, except for such changes and additions as altered political circumstances necessitated. The principal change he suggested was based on the advice which he had received just before sailing; namely, that goods of the growth or manufacture of the Netherlands or her colonies should pay no higher duties when imported in Dutch vessels than when imported in American vessels. In return for this he promised a similar concession in favor of American goods imported into the Netherlands.[2)]

Before Monroe could reply, Congress had passed the act of March 3, 1815.[3)] By this act the United States offered to abolish all discriminating tonnage duties on foreign vessels, and all discriminating duties on their cargoes, when these consisted of the produce or manufacture of the country to which the vessel belonged, on condition that foreign countries should grant reciprocal privileges to American vessels and goods. Monroe sent a copy of this act to Changuion, and expressed the belief that he would find in it "a satisfactory proof that the United States concur with your government in its policy." But he also informed him that our government thought it "improper to enter into any special engagement respecting it, until the sense of other powers is

1) R. A. *B. Zaken, Am. Leg.,* Registre 3, No. 2-A-8, 9 and 10. Memorials from Schiedam, Leiden, Rotterdam, etc.
2) *Notes from Legation of the Netherlands,* I. Feb. 24, 1815.
3) *U. S. Statutes at Large,* III., 224.

in a certain extent ascertained." [1] In a later communication he explained that the first treaty might in some degree form the basis of our commercial system. "It is proper, therefore, to be attentive to its conditions to avoid engagements with one power which might embarrass them with others." "Had you the requisite powers, I should be authorized to treat with you immediately." In the meantime, "an obvious inconvenience might result to both countries, from agreeing to any condition which could not possibly take effect till some distant day, and which from the difficulty of arranging other points, might never take effect." [2] Beyond this point the negotiations did not progress, and Changuion could justly complain to his government of the coldness with which his proposals had been received.[3]

In Monroe's instructions to Eustis we find the idea expressed that the American government should "reserve this principle of reciprocation," as a means of breaking down the colonial system of Holland, France, and Great Britain. "There could be no motive to adopt such a regulation" with Holland, unless it could be made part of a *general system* with the powers of Europe. Moreover, "Holland could give no equivalent, the articles imported thence into this country bearing no comparison, in point of bulk, with the vast productions of the United States." [4]

The subject of a new commercial treaty now came up for discussion between Eustis and Nagell. Nagell was a member of the Dutch aristocracy, and if we may believe what Van Hogendorp says, he was "an enemy of trade," and "a hater of Americans." [5] Nagell informed Eustis during the course of their first interview, that the Dutch government "were not particularly anxious that there should be a treaty." But in view of "the present state of the commerce of this country," he considered it "a matter of indifference" whether the treaty should contain any stipulations regarding reciprocal duties, such as Changuion had

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1) *Notes to Foreign Legations,* II., 75. March 23, 1815.
2) Ibid., II., 117, April 12.
3) R. A., *B. Z., Am. Legatie,* Registre 2. Despatch No. 13, April 8, 1815.
4) *Instructions, Europe,* VII., 397. May 19 1815.
5) *Brieven en Gedenkschriften van G. K. Van Hogendorp,* V., 70, 76. Van Hogendorp was a free trader. On his economic ideas, which were far in advance of those of his time, see an excellent work by Otto H. Van Rees, *Van Hogendorp als Staathuishoudkundige.*

urged. They agreed, however, that the former treaty would serve as the basis of a new one, and that Eustis should write home for full powers to begin negotiations.[1]

Meanwhile king William, who was keenly interested in commercial and industrial matters, had made known, by his decree of May 27, 1815, that in the future all goods and merchandise from North and South America were to be subject to no higher import, export or transit duties in the Netherlands than were levied on European goods, and that the tonnage duties on vessels carrying such goods were to be the same as for vessels trading to and from a European port. This decree was officially made known to our government on August 31, with an intimation that the king would be pleased to have the United States adopt similar regulations in favor of Dutch vessels.[2] But Monroe pointed out, on January 17, 1816, that this regulation "does not afford a ground on which the President is authorized to put in force the law of the last session of Congress," for it placed "the ships and produce of the United States on a footing with these of the powers of Europe only. It does not appear that they are placed by it on a footing, in the ports of the Netherlands, with the vessels and goods of native subjects, which our law requires." Furthermore, our law contemplated "a free commerce, on just and equal conditions, with all the dominions of the power to whom it is extended," whereas this regulation was limited to the European dominions of the Netherlands.[3]

Ten Cate, the Dutch chargé, acting on instructions from his government, then explained[4] that all duties in the Netherlands were regulated by a law of 1725, which had again been put in operation in December, 1813. By this law European vessels were placed on an equality with national vessels as regards import duties. The decree of May, 1815, by placing Americans on an equal footing with Europeans, had therefore in reality placed them on an equal footing with

1) *Despatches, Netherlands,* V. Eustis to Monroe, Aug. 11, 1815.
2) *Notes from Legation of the Netherlands,* I., Lechleiter (chargé ad interim) to Monroe. A translation was also sent by Bourne to the Secr. of the Treasury in June (*Consular Despatches, Amsterdam,* II.)
3) *Notes to Foreign Legations,* II., 120. Monroe to Lechleiter.
4) *Notes from Legation of the Netherlands,* I. Ten Cate to Monroe, September 16, 1816.

vessels of the Netherlands. The only exceptions to this general rule were an additional duty on salt, imported by foreigners, and on the products of the whale fishery. But neither of these exceptions operated against the United States; for salt was an article which Americans never imported into Holland, and the additional duty on the products of the whale fishery must be paid not only by foreign vessels, but by Dutch vessels as well, when these could not be classed as fishing vessels. In respect to import duties, therefore, the reciprocity contemplated by the American law "has already been in operation for more than a year in the Netherlands." More important still, in the colonies also the King had made arrangements decidedly favorable to every branch of our trade. In the East Indies foreign vessels and goods were admitted entirely free, and vessels returning from a colonial port to a port of the Netherlands, were exempt from paying an entry duty, just as national vessels were. In Curaçao, St. Eustatius, St. Martin, and on the coasts of New Guinea, Americans even enjoyed special privileges not granted to any other foreign nation.

In regard to tonnage duties, he admitted that by a law of September, 1814, an inequality existed between those paid by foreign and by national vessels. But this law was limited in its operation to the Belgian provinces and in reality Antwerp was the only Belgian port at which Americans traded.[1] And the additional tonnage duty on American vessels at Antwerp would be removed as soon as the United States saw fit to remove the discriminating tonnage duties levied on Dutch vessels in American ports.

Ten Cate was one of these who believed that the good intentions of the government of the Netherlands, as evinced by the decree of May 27, deserved some recognition from the United States, and that our failure to reciprocate in any manner gave the Dutch a real cause for grievance. In a despatch of August 30, 1816,[2] he expressed his doubts as to whether the American government was sincere in its professed desire to apply the principles of reciprocity. In commenting on the long delays which he experienced in receiving

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[1] Our consul at Ostend reported the arrival of only two American vessels in 1816 and 1817. In 1818 our consulate at that port was abandoned—*Consular Letters, Rotterdam* I., E. Wambersie to Secr. Adams, May 5, 1818.

[2] R. A., *B. Z., Amer. Legatie,* I., Despatch No. 8.

replies to his various notes, he voiced the belief that this slow despatch of business by our State Department was intentional, and that the sole object of our government was to continue the present scale of duties as long as possible. At length, when Monroe made no reply to the explanations contained in his last note, he advised his government to retaliate, by raising its tonnage and import duties on American vessels. Reciprocity of this kind, he thought, would do more good in bringing the American government to terms than all the concessions which the king had thus far made.[1]

But the Dutch government was not prepared to go to this extreme. The king had hoped that reciprocal commercial relations might be established by legislation, without the adoption of a new treaty, but this hope had been disappointed by Monroe's note of January, 1816. He had then expressed a wish to see the treaty of 1782 continued in force,[2] but to this Monroe had replied, that the former treaty could not be revived "without being again ratified and exchanged in the form that is usual in such cases, and in the manner prescribed by our constitution. Since the declaration made by M. Changuion, the United States have made new regulations of their commerce, in one instance by treaty, which must necessarily be considered whether the old treaty be revived or a new one formed. This circumstance shows that the business cannot be arranged with advantage without entering into a new negotiation, either in this city or at The Hague." [3] Rather than resort to retaliation, the king now consented to open negotiations for a new treaty, and proposed that these should take place at The Hague.[4] This proposal was accepted by the American government on February 5, 1817.[5]

Meanwhile the Dutch government had made a second concession to the United States, by declaring that after

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1) R. A., *B. Z., Am Legatie,* Dossier B 26, No. 4990. Ten Cate to Nagell, Oct. 12, 1816. The idea of retaliation was suggested to Ten Cate by the Dutch consul at New York in February (Ibid., Registre 3, No. 4-A).

2) *Notes from Legation of the Netherlands,* I. Ten Cate to Monroe, April 4, 1816.

3) *Notes to Leg. of Netherlands,* II., 169-170. Monroe to Ten Cate, August 17, 1816.

4) R. A., *B. Z., Am. Legatie* Dossier B 26, No. 3887. Decision of king dated Oct. 8.

5) *Notes to Legation of the Netherlands,* II., 202.

January 1, 1817, American vessels should be exempt from paying the extra tonnage duty hitherto demanded. Eustis reported that this was done in anticipation of a similar arrangement on our part, and he advised our government to give instructions to that effect to the collectors of customs.[1] But his advice was not heeded.

The treaty commissioners appointed by the Netherlands were J. C. Van der Kemp and T. Goldberg, the director-general of commerce and colonies. The American commissioners were William Eustis and Albert Gallatin, our minister at Paris. On September 22, 1817, they reported to the American government that after four weeks of negotiation they were unable to agree on any of the points mentioned in their instructions.

The discussions were confined to the three propositions which Eustis and Gallatin submitted at the second sitting, on August 30.[2] The first of these was that the treaty of 1782 should be renewed and should be made applicable to Louisiana and Belgium, which had been acquired by the respective countries since the former treaty had been concluded. This was immediately agreed to,[3] for the Dutch commissioners had already been authorized, by the king's instructions, to concede this point.[4]

Their second proposition related to discriminating duties, and in accordance with their instructions,[5] they proposed to establish *perfect equality,* by the abolition of all discriminating duties, however light. The Dutch commissioners readily agreed that discriminating *tonnage* duties should be abolished, for this was a concession which the Dutch government had thus far sought in vain to secure. They also consented to the abolition of discriminating *import* duties on

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1) *Despatches, Netherlands,* V. Eustis to Monroe, Feb. 21, 1817.

2) Most of the material on the treaty negotiations, consisting of a lengthy report by Eustis and Gallatin, September 22, and copies of all the protocols which were exchanged, is to be found in the State Dept. *Despatches, Netherlands,* V. The following references on this subject are to this material, unless otherwise indicated.

3) Protocol of August 20.

4) R. A., *Buitenl. Zaken, Amerik. Legatie,* Dossier B 26, No. 46. August 18.

5) *Instructions, Europe,* VIII., 139. Richard Rush to Eustis and Gallatin, April 22.

goods carried *directly* from country to country. But they refused to extend the principle of reciprocity to the *indirect* trade, that is, to goods carried into either country *from or to a foreign country*. This branch of the trade, they maintained, should receive no greater privileges than those which were accorded to most favored nations.[1] The motive for their refusal is made clear in their report to the king, where they point out that the Dutch were already greatly handicapped by the competition of Americans, whose mercantile marine had so increased of late that they were in a position to take part in the carrying trade, in the most extensive meaning of that word.[2]

The second proposition was closely connected with the third, which dealt with the colonial trade. For, the American proposal of a general and unqualified repeal of discriminating duties, "without distinction of place or merchandise," was intended primarily as a means of opening up the Dutch colonies to American vessels on more favorable terms. The main difficulty arose in connection with this third proposition. The king would admit American vessels to the East and West Indies only on the footing of the most favored nations, but in return for this he demanded some additional concession from the United States. And since the United States had no colonies which it could open up to the trade of the Netherlands, he expected the concession to be made in some other form.[3] Unofficially, in private conversation, the Dutch plenipotentiaries intimated that they desired a reduction of our high tariff on gin, cheese, and other articles of Dutch growth or manufacture. They would also be satisfied with a promise on our part to grant Dutch subjects a share in the trade of such colonies as we might acquire in the near future.[4]

The American commissioners explained that they were not authorized to grant any other equivalent, as the price of admission into Dutch colonies, "than is to be found in the general advantage derived from a free admission of the vessels of the Netherlands in the ports of the United States."

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1) Protocol of September 3.
2) R. A. *B. Z., Amerik. Legatie,* Dossier B, 26. October 27.
3) Third sitting. Protocol of September 3. This idea was laid down in the king's instructions to the commissioners, on August 18 (R. A., B. Z., Dossier B, 26.)
4) Report of Eustis and Gallatin, Sept. 22.

And this advantage they regarded as a fair equivalent for a participation in the trade of any European power. They argued that if the United States had no colonies, it was because we regarded no part of our territory as a colonial possession. Nevertheless the productions of Louisiana belonged strictly to the class known as *colonial goods*, and Louisiana had been a colony prior to its acquisition by the United States. Since then it had been opened to the vessels of the Netherlands on the same footing as to our own. Our claim to admission into the colonies of other nations was therefore founded on the principles of reciprocity.[1)]

The reply to this argument[2)] indicates that Holland was at this time still a firm believer in the Mercantile system. That Louisiana might be classed as a colonial possession merely because it produced sugar and cotton was denied, for on this ground South Carolina and other *states* of the Union should also be considered as colonies. The determining factor was the political relation of such a possession to the mother country. The United States had always treated Louisiana as an integral part of its territory, but among colonial powers it was generally held that colonies required a different form of government from the mother country. And though some other nation might wish to depart from this practice, Holland would continue to treat her colonies as dependent possessions. By the constitution of the Netherlands the king alone was empowered to determine the colonial régime. Colonies, it was stated, were a means of fostering the trade and navigation of a nation, and to accomplish this object "they should be accessible only to national vessels; consequently, the admission of any foreign vessels is an infraction of the colonial system." The United States should look upon the trade with the Dutch colonies "as a favor which is granted, and not as a right which they can claim." The utmost the king could do was to admit Americans on the same rights as were granted to such nations as possessed colonies, but this concession called for a just equivalent.

Seeing that the Netherlands was unwilling to extend the principle of reciprocity to its colonies, the American commissioners now withdrew their second proposition, and re-

1) Fourth sitting. Protocol of September 8.
2) Fifth sitting. Protocol of September 12.

submitted it in a modified form. They now proposed that the provision abolishing discriminating duties on imports should be limited to goods which were of the production or manufacture of either country. This restriction of the original proposition was objected to, on the ground that the geographical position of Holland made it the natural outlet for the merchandise of Germany and Switzerland. Such a restriction as to the origin of merchandise was not only unfair, but would inevitably lead to fraud.[1]

The first proposition was therefore the only one on which an agreement could be reached, but as the American commissioners had received no specific instructions to conclude a new treaty which merely extended the old one to Louisiana and Belgium, it was agreed, on September 20, that the negotiations should be terminated, and that the subject should be referred back to the respective governments for further consideration.

In their report to the American government, Eustis and Gallatin state that they had listened to frequent complaints of our unfairness, for the Netherlands had been the first to make various concessions without obtaining like treatment. They suggested that it would be to our advantage to equalize the tonnage duties on the vessels of both countries.[2] Eustis, in a separate report, expressed the belief that the reluctance of the Dutch to admit us by treaty to the East Indies, was due in large part to the jealousy of the merchants of Amsterdam, but that the real cause for the failure of the negotiations must be sought in our high tonnage duties.[3]

The report which the Dutch commissioners submitted to the king closed with the advice that the government should lay an additional tonnage duty on American vessels. This course of action, they state, was "emphatically desired by the commercial element of the entire kingdom." [4] The government now adopted this advice, and a royal decree of November 24 declared that after February 28, 1818, the tonnage and port duties on American vessels would be raised.[5]

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1) Protocols and Notes of September 12 and 18.
2) *Despatches, Netherlands,* V., Sept. 22, 1817.
3) Ibid., Eustis to Monroe, Sept. 27.
4) R. A., *Buitenl. Zaken, Am. Leg.,* Dossier B, 26. Goldberg and Van der Kemp to the king, October 27.
5) Ibid., No. 81.

On February 13 Ten Cate sent a copy of this decree to Secretary Adams, and on March 19 President Monroe submitted a special message to Congress in which he mentioned the failure of the treaty negotiations and suggested that the difficulties between the two countries might be settled amicably by legislation. Since these difficulties, said Monroe, "appear to be of a nature which may, perhaps, for the present be more easily removed by reciprocal legislative regulations, formed in the spirit of amity and conciliation, than by conventional stipulations, Congress may think it advisable to leave the subsisting treaty in its present state, and to meet the liberal exemption from discriminating tonnage duties which has been conceded in the Netherlands to the vessels of the United States by a similar exemption to the vessels of the Netherlands which have arrived, or may hereafter arrive, in our ports, commencing from the time when the exemption was granted to the vessels of the United States." [1]

On April 13 a bill embodying this suggestion was introduced in the Senate, by the chairman of the Committee on Foreign Relations, and on the same day it passed its second reading.[2] At this point Ten Cate resorted to a bit of lobbying which greatly changed the character of the bill. He held several interviews with Senator Barbour, who had introduced the bill, and persuaded him to introduce a provision for lowering the duty on imports as well as on tonnage, and to have the bill apply to the Netherlands alone, instead of extending it also to Russia, Hamburg and Bremen as the President had suggested. In this form the bill passed the Senate on the 15th.[3]

In the House, so Ten Cate reports[4] "a pronounced opposition" arose, not only against the Senate amendments but against the entire bill. The two leading opponents were Lowndes and Pitkin, who declared that Congress had no power to pass a *special* law of this kind and that the subject was one which should be regulated by treaty. A motion to table the bill was carried by a great majority. This was on the 17th, and Congress would adjourn on the 20th. There

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1) Richardson, *Messages and Papers of the Presidents.* (1911 edition), I., 599.

2) *Annals of Congress,* 15th Cong., 1st Session, Vol. I., 362.

3) Ibid., I., 369.

4) R. A., *Buitenl. Zaken, Am. Legatie,* Dossier B, 26, Ten Cate to Nagell, April 20.

was no time to lose, therefore, if the bill was to pass at that session. Ten Cate now consulted with Mr. Smith, one of the few Representatives favoring the bill, and together they arranged a plan of action. Ten Cate relates how he spent the night in drawing up an *exposé* of the commercial relations between the two countries and how early on the following morning he managed to engage the opposing members in conversation and to induce them to read his *exposé*. After having read it attentively, they both appeared much better disposed toward the law. While these three were yet engaged in conversation, Mr. Smith casually joined the group and proceeded to enlighten Lowndes and Pitkin on the need of taking action before adjournment. Both at length agreed to withdraw their opposition, and an hour later, when Smith moved to re-consider the motion of the previous day, the bill was immediately passed without opposition. It was signed by Monroe on April 20.

This act of April 20, 1818,[1] made two concessions to the Netherlands, which put an end to further complaints of our unfairness. It provided for the abolition of all discriminating tonnage duties on "vessels truly and wholly belonging to subjects of the king of the Netherlands." This concession was general and unqualified. The only test our customs officers need apply was that of *ownership*. If a vessel flew the Dutch flag and was owned in Holland, it was to pay no higher tonnage duty upon entering any of our ports than an American vessel, irrespective of whether it had sailed from the Netherlands, from a Dutch colony or from some other part of the world.

The second provision of the act abolished discriminating import duties on certain kinds of merchandise, when imported in Dutch vessels. This concession was more limited, for here the origin of the goods was the determining factor. The only merchandise on which the duty was reduced was that which consisted of the produce or manufactures of the King's territories in Europe; or such produce and manufactures "as can only be, or most usually are, first shipped" from a port of the Netherlands. These were to pay the same duties when imported in Dutch vessels as when imported in American vessels. All other goods, including the produc-

[1] *U. S. Statutes at Large*, III., 464.

tions of the Dutch colonies, were to pay the additional duties which our tariff laws required.

This arrangement, even though it did not apply to the Dutch colonies, removed all the objections of the Netherlands against our commercial policy. It was all the more satisfactory because of the provision that the repeal of both classes of duties was to take effect from the time the Netherlands had abolished its additional duties on American vessels and goods. This feature of the act entitled the Dutch to a restitution of the excess duties they had paid during the preceding sixteen months. On June 19, King William in turn ordered a repayment of the additional duties levied on American vessels and goods since February 28, 1818.[1]

This act successfully disposed of only one of the points which had been discussed by the treaty commissioners. The other two questions—the trade with the Dutch colonies, and the existence of the treaty of 1782—still remained undecided.

On the subject of the colonial policy of the Netherlands, Secretary Adams unburdened himself of the following remarks, in his instructions to Everett in August, 1818.[2] "The admission of our vessels into the Dutch colonies may remain upon its present footing as long as the government of the Netherlands find their interest in giving it no further extension. They are now, in fact admitted upon the footing of the most favored nation; but the Dutch government declined stipulating for the continuance of this advantage, without the promise of an equivalent on our part; adhering to the decayed and rotten principles of the exclusive European colonial system, as if they had forgotten, or wilfully overlooked, the 40 last years of the history of the world." "The whole of this colonial system . . . . is an outrage upon the first principles of civilized society." "All the remnants of the absurd and iniquitous system" must soon be demolished, he thought, by the Revolutions in North and South America and in Portugal, "together with the progress of the human mind towards emancipation." "The United States may, without material inconvenience, wait for the consummation of this event, and leave the government of the Netherlands to the necessity of accommodating themselves to it."

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1) R. A., *Buitenl. Zaken, Am, Leg.*, Dossier B, 26, No. 201.
2) *Instructions, Europe*, VIII., 237 and ff. August 10.

The principle established by European colonial powers, "of granting access to the colonies of each other as a mutual barter or monopoly, is nothing less than a conspiracy against the United States, the only nation whom it materially injures, and the only nation extensively commercial and maritime which possesses no colonies." He believed our government could not *"too cautiously avoid acquiescing"* in this principle. Since the prospect of an agreement on this subject was unfavorable, "it is hoped no further wish will be intimated to you for a renewal of the negotiation: in which case it will not be necessary for you to introduce the subject, or to present the ideas here unfolded." The question of colonial trade did not again become a subject of discussion between the two governments until several years later.

On the question as to whether or not the treaty of 1782 should still be considered as binding, the attitude of both governments had thus far been inconsistent. The Dutch government, influenced, as we have seen, by the advice of the British cabinet, had first taken the stand that the treaty was no longer applicable, but in 1816, when the Netherlands was less in need of England's friendship, the king had declared his intention of continuing to adhere to the treaty. And Monroe, as Secretary of State, had officially declared that the old treaty could not be revived without being ratified and exchanged in the usual form, but, as President, he had suggested to Congress the advisability of leaving "the subsisting treaty in its present state," thereby declaring his belief that the treaty was still binding.

Secretary Adams informed Everett that the President was averse to opening new negotiations on this subject, because "experience has shown that their result is not only to prevent the mutual agreement of the parties, but to alienate them from each other, and to raise asperities between them which would not otherwise exist." Should Nagell intimate a wish to renew the negotiations, Everett was to mention "the natural tendency of discussion, unless it terminates in agreement, to generate mutual coolness and opposition," and, not as a complaint, but as a fact, he was to point out that this was exemplified by the late conferences.[1] And in referring to the spoliation claims, in this same set of instructions,

[1] Ibid., August 10, 1818.

Adams explicitly states that the two countries still consider themselves bound by the stipulations of the treaty of 1782.

The treaty was never formally abrogated and never formally renewed, but both governments silently agreed to consider it still in force.

CHAPTER VIII.

The Dispute Regarding Discriminating Duties.

At the beginning of 1819 the only point in dispute between the two countries was that of spoliation claims. These were abandoned early in 1820, and during the next two and a half years no new question arose. But a tariff law enacted by the Dutch government on August 26, 1822, gave rise to a new discussion regarding discriminating duties, which lasted during the remainder of Monroe's administration and was continued under Presidents Adams and Jackson. In this dispute the United States appeared as the complaining party. Our relations with the Netherlands from 1822 to 1839 were largely determined by this single question.

The 10th article of this tariff law[1] provided for a restitution or drawback of 10% of the duties on goods imported or exported in Dutch vessels. Everett, without waiting for instructions, pointed out that a drawback, granted to Dutch vessels alone, was equivalent to a discriminating duty on American vessels. He believed that "the immediate and necessary consequence" of this policy would be a repeal of our law of 1818, which had been passed on the understanding that there were no discriminating duties in force in the Netherlands.[2]

Nagell replied that the duties remained the same for foreign and for national ships, and that the 10% drawback was merely equivalent to a premium granted to every vessel built in the Netherlands. If the American government had seen fit to grant a similar premium to American vessels, the king said, he would have made no objection.[3] But he apparently placed little reliance on this explanation, for he sought further to justify the policy of his government by

[1] *Staatsblad van het Koninkrijk der Nederlanden,* No. 9.
[2] *American State Papers, Foreign Relations,* V., 591, Everett to Nagell, March 7, 1823.
[3] *Amer. State Papers, Foreign Relations,* V., 592. May 27, 1823.

pointing to an act passed by Congress on March 3, 1819,[1] which stipulated that our reciprocity acts should expire on January 1, 1824. This applied to our first reciprocity act of March, 1815, which was general in its nature; to the act of April, 1818, which referred to the Netherlands alone; and to the one of March 3, 1819, which extended reciprocity to Prussia, Hamburg and Bremen. Nagell professed to see in this act a proof that the United States intended soon to deprive Dutch vessels of the privileges assured them by the act of 1818, and stated that this "alone serves as a sufficient cause for preventing the government of the Netherlands from establishing any exception in the new tariff in favor of the American flag." [2]

This argument was a mere sham, but Everett patiently explained[3] that the sole object of the act of 1819 was "to fix a time when the subject should be taken up again in Congress," and that a limitation of this sort was a common legislative practice among us. The limitation of our reciprocity acts to the 1st of January, 1824, therefore, furnished "no proof of an intention to change the system"; on the contrary, there was no reason to doubt "that the result of a reconsideration of the subject will be to reënact the law, with such alterations as may appear expedient. Among these alterations will probably be the repeal of the privileges granted by the act to any powers which may have subsequently withdrawn the corresponding privileges formerly allowed by them to the citizens of the United States."

Moreover, the argument that a government may grant a drawback to its own citizens, without subjecting itself to the charge of impartiality was false, for, "if the foreigner actually pays in any way 10% more than the citizen, it would be rather difficult to prove that they are placed on the same footing, or, in other words, that they pay the same." A premium might be a justifiable means of encouraging national shipbuilding, but this was no proof "that a discrimination in favor of citizens is consistent with perfect impartiality between citizens and foreigners. The American government had in view the same object, viz.: encouragement of the navigation of their country, in establishing a discriminating ton-

1) *U. S. Statutes at Large,* III., 510.
2) *Amer. State Papers, Foreign Relations,* V., 592.
3) Ibid., V., 593. May 31, 1823.

nage duty in favor of our vessels; but they certainly never thought of maintaining that foreigners, against whom this discrimination operates, are as favorably treated in our ports as the citizens of the United States."

In conclusion Everett stated that the people of the United States were "too well satisfied with the goodly heritage which the bounty of Providence has allotted to them, and too abundantly supplied from their own territories with the best products of almost all climates, to solicit very anxiously of any foreign power the concession of favors, commercial or political." If the king did not deem it expedient to accept our offer of reciprocity, the American government, "without complaining of his refusal, and without suffering much from it, will doubtless regret that the views of so enlightened a monarch upon a great question in political economy should be different from their own."

Secretary Adams entirely approved of these views, and instructed Everett[1] to make it clear that a drawback was "as much within the principle of discriminating duties as a direct tonnage duty." "The object of *all* discriminating duties," he said, "is to favor the national shipping and ship-building interest; and whether in the shape of additional import, of tonnage, of drawback, or of bounty, they are alike felt in the competition of navigation, and alike incompatible with the principle of equal privilege and burden." He also believed Congress would continue the system of reciprocity, unless the Netherlands should persist in its recent policy. He therefore requested Everett to obtain from the Dutch government a declaration that their tariff act would not be applied against American vessels, so long as their vessels enjoyed equal privileges with ours in American ports, and to forward this declaration before Congress should re-convene.

But when Congress met no such declaration had yet been received. The result of their deliberations was the passage of the act of January 7, 1824,[2] which renewed the former

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[1] *Instructions, Europe,* X., 95. August 9, 1823.

[2] *U. S. Statutes at Large,* IV., 2. The bill was passed unanimously. It was sponsored in the Senate by Samuel Smith of Maryland, who said "he had been informed by their chargé [i.e. of the Netherlands] that the revival of this act on our part would produce the repeal of their late law." Senators Lloyd and Hayne also made a few remarks. *Annals of Congress,* 18th Cong., 1st Session, Vol. I., 53-60.

acts applying to the Netherlands, Prussia, Hamburg and Bremen, and which for the first time extended reciprocity to Lübeck, Oldenburg, Norway, Sardinia, and Russia, on condition that in the ports of these countries our vessels "be exempt from all and every discriminating duty of import or tonnage, *direct or indirect*, whatsoever." A provision was also inserted for suspending the act against any country which did not fully reciprocate. This last provision was applicable to the Netherlands, so long as it did not either withhold the drawback from its own vessels or extend this privilege to ours.

Late in February the Dutch Secretary of foreign affairs received a copy of this act, but before he could frame a reply, Everett had returned home. His successor, Christopher Hughes, did not assume his duties until the middle of 1826. Further discussion was delayed also by the change of administrations in the United States, and by the resignation of Nagell. Baron Verstolk de Soelen was now placed in charge of the Foreign Office.

In December, 1825, the question was re-opened at Washington by Henry Clay, the new Secretary of State. Clay referred to the arguments advanced by Everett, and repeated that if "vessels of the United States pay, in export or import duties, ten per cent. more than Dutch vessels, or Dutch vessels pay 10 per cent. less than those of the United States, there does not exist an equality between them. This proposition is too clear to be considered as open to argument. If the Government of the Netherlands thinks proper to originate such a difference, or having created it thinks proper to continue it, we shall not controvert its right to do so. But we are entitled to know its dispositions in this respect." He, therefore, requested to know whether the law in question had been modified or repealed.[1] The Dutch minister, the Chevalier Huygens, replied that he had received no instructions on this matter, and was unable to give a definite answer.[2] Clay expressed his surprise that no instructions should have been given on a matter which had been pending for two years, but stated that the President would refrain from exercising the power granted him under the last act of Congress, until Huygens could get in touch with his government.[3]

1) *Amer. State Papers*, VI., 374-375. December 10, 1825.
2) Ibid., VI., 375. Dec. 12.
3) Ibid., 375-376. Dec. 24.

On September 15, 1826, Huygens transmitted to Clay the substance of the instructions which were forwarded to him on June 2.[1] The Dutch had confidently expected, so Huygens explained in this note,[2] that their trade with the United States would be greatly benefited by our law of 1818, but experience had shown the contrary. During the six years following its adoption, "not a single vessel under the national flag" had sailed from Rotterdam, and the number which had come to American ports from Amsterdam and Antwerp was so small as to be scarcely worth mentioning. On the other hand, Dutch ports had been visited by a large number of American ships. The Dutch government maintained that our second law, that of 1824, was even less liberal than the first, and had afforded no relief to Dutch shipping, but that Americans alone had profited by it. To support this statement, he submitted a few trade statistics for the period between January 1, 1823, and June 30, 1825. During these two and a half years only 24 vessels flying the Dutch flag had visited American ports, while the number of American vessels which had cleared from Dutch ports for the United States was 228. During the same period only 12 Dutch vessels had sailed for Holland from an American port, as compared with 287 American vessels.

The reason why so few Dutch vessels came to the United States must be sought, said Huygens, in our high tariff. "And how," he asks, "could the ships of the Netherlands transport their merchandise to the United States, when they find there the principal productions of the kingdom, as, for example, Geneva [gin], sail-cloth, cheese, and many other articles, charged so high as to pay, calculated from the original prices, from 50 to 100 per cent. of the value?" The Dutch tariff, on the contrary, was extremely low, so that Americans could sell their merchandise at a profit, even though some articles were subject to a higher duty when imported in foreign vessels, and even though Americans did not receive a drawback.

With this explanation Clay could not agree. That a much larger number of American than Dutch vessels participated in the direct trade between the two countries could not be denied, but the cause for this phenomenon should be sought,

1) R. A., *Buitenlandsche Zaken, Am. Legatie,* Registre 9-G.
2) *Am. State Papers,* VI., 376-378.

said Clay,[1] in the fact that the mercantile marine of the Netherlands had almost been wiped out during the Napoleonic wars. The ten years which had since elapsed, "were not sufficient to restore it to its ancient flourishing condition. The first object of the government, and of the enterprise of the Dutch merchants, was probably to revive the intercourse with their distant colonies, and in that their marine was principally employed." The cause should, therefore, not be sought in our high tariff, for, under the law of 1824, Dutch merchandise was subject to no higher duty when imported in Dutch vessels than when imported in American vessels. It was the policy of the American government to enforce the same rate of duties against all nations, and from this well-established policy we were not prepared to depart. It was unfortunate that gin, sail-cloth and cheese happened to be articles similar to those which our own country produced; our tariff, however, "was not arranged with any reference to its particular operations on Dutch produce, but with the general purpose of protecting American industry." On the other hand, such articles as cotton, sugar, and tobacco, "not being products of the Netherlands, may be admitted at a low rate of duty, not only without injury, but as respects the first especially, with great encouragement to the industry of the Netherlands."

Then coming back to the original point in dispute, Clay continued, "There is a manifest distinction, however, between the standard of duties which is applied to the articles of a commerce between the two countries, and the principle of equality in the transportation of those articles by the vessels of the same countries. Leaving each free to impose such duties as the state of its revenue, of its institutions and of its domestic industry may seem to require, there is nothing to prevent the operation of a rule of fair competition between the vessels of the two countries, by each being allowed to export or import at the same rates of duty for vessel and cargo."

Clay was no doubt correct in pointing to the weakness of the Dutch mercantile marine as the principal cause why the Dutch were not in a position to compete with Americans in the direct trade. But this weakness of the nation's mer-

[1] Ibid., VI., 378-379. October 25, 1826.

cantile marine was a source of strength to the Dutch government in the controversy regarding discriminating duties; for it induced the American government to act with moderation and to refrain from retaliatory measures. President Adams, in referring to the matter in his second annual message, in December, 1826,[1] stated that although retaliation on our part might be "just and necessary," he thought it "more consistent with the spirit of our institutions to refer the subject again to the paramount authority of Congress, to decide what measure the emergency may require," than abruptly to carry into effect the 3rd section of the act of 1824, which authorized him to suspend the privileges granted under the act against any country which did not fully reciprocate.

Meanwhile Hughes had arrived at his post and the result of his first interview with Verstolk was such as to convince him that the Dutch government had no intention "of making any change whatever in the 10% allowance to their own traders; or in their system as it now exists." "It now remains for us to decide," he says, "what we are to gain or lose by passing acts at home altering the actual footing of the trade with this country." [2] A little later[3] he states emphatically that "any legislation on our part *will not* be met by an abrogation of the 10% bounty . . . . but will be met by some countervailing measure on the part of this country." Verstolk, he reports, "was astonished that so unimportant a matter should be so strongly dwelt on," and he quotes him as saying, "If you do anything to change the footing of the trade, what will be the consequence? Why, instead of 10 or 12 of our ships going to your ports, there may go only 5 or 6, so the influence of such a change may affect 5 or 6 vessels and no more! Moreover, this domestic rule of ours is *not meant* for the *United States,* our direct trade with you is so trifling that it would not be worth while to persist in it; but consistency requires of us not to alter it as respects you: it is essential to our navigation, in our intercourse with *other* nations, especially England; and a change towards you might, and would, produce the most serious inconvenience in our relations and obligations towards other powers."

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1) Richardson, *Messages and Papers of the Presidents,* II., 918.
2) *Despatches, Netherlands,* VIII. Hughes to Clay, January 21, 1837 (private).
3) Ibid., VIII. April 15, 1827.

Hughes reports further that the Dutch merchants with whom he had spoken "will not patiently talk of the abrogation of the 10%. Some of them have said, 'Why, the duties upon your produce are merely nominal . . . . and look at our ports, look, for example, at Antwerp. There are forests of American masts. We are almost driven off the seas by you'." Hughes was deeply impressed with the delicacy of this "ticklish question," all the more so, because of "the universal eagerness and malicious watchfulness with which the European commercial world has seemed to anticipate . . . . some break up, some commercial quarrel, some misunderstanding between the two nations!" This feeling had shown itself in numerous ways; there was a general expectation "that some serious rupture was about to trammel our relations with the Netherlands."

All his despatches are similar in tone. The Dutch government maintained that it could not and would not change its system, to suit the wishes of the United States, and defied the United States to retaliate. "Any alteration made *by you,*" said Verstolk on one occasion,[1] "will act upon only 12 or 14 of *our* ships, whereas retaliation by us would act upon 200 to 300 of *yours.*" The Dutch government was delighted to see our numerous ships, and hoped the number would go on increasing, "but the very actual numbers proves they are pretty well satisfied with our treatment of them; we know very well what trade means; if they were not satisfied, they would not come, for they certainly don't come here for our amusement and advantage." On another occasion he declared that they would rather have *none* of their ships go to the United States, than to deprive them of the 10% drawback and thus to change their entire system.[2]

The representations of Hughes merely served to embitter the Dutch government, and in September, 1827, Verstolk advised the king, in a secret communication, to break off the discussion unless the American government should desist from its extreme demand.[3] The Dutch minister at Washington was instructed to refrain from alluding to the matter, and if the American government should again bring it up, he was to defer a definite reply, in the hope that the whole

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1) Ibid., VIII. Hughes to Clay, June 12, 1827 (private).
2) Ibid., VIII. Hughes to Clay, October 15, 1827.
3) R. A., *Buitenl. Zaken, Amer. Legatie,* Registre 9-I. Sept. 28.

question might be settled at some future date by means of a commercial treaty.[1] And Hughes, realizing that nothing was to be gained by further discussion, declared that we must now decide "whether we will be satisfied with our present undeniable advantages," or run the risk of losing them "by an effort to make them better." [2]

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The Dutch government had never maintained that our demand was wholly unjustifiable and that we were not in strict justice entitled to what we asked for. On the contrary, it was admitted that "in the abstract and on paper" we might have some ground for remonstrance,[3] and from this admission it follows that the Dutch government knew itself to be, at least theoretically, in the wrong. All that the American government conceded, therefore, when it temporarily abandoned the discussion at the close of 1827, without having gained its point, was that the matter was not of sufficient practical importance to us to deserve being pressed unduly. For, though the profits of the American trader would have been increased considerably, had the 10% drawback been granted to Americans as well as to the Dutch, it could not be denied that the policy of the Dutch government had resulted in no *direct loss,* and that it had not materially decreased the number of American vessels trading at Dutch ports.

But if the number of American vessels entering Dutch ports showed no decrease, and even exceeded the number of Dutch vessels annually engaged in the direct trade between the two countries in the proportion of 100 to 10, this was not because of the tariff law of 1822, but in spite of it and *contrary to its real intention.* For, the avowed object of the 10th article of this law was to encourage national ship-building, and thus to encourage the importation of foreign goods in Dutch vessels, instead of in foreign vessels. The Dutch mercantile marine was still comparatively small, so that a government premium or bounty was deemed necessary to

1) Ibid., Registre 9-I. Verstolk to Huygens, October 31, 1827.
2) *Despatches, Netherlands,* VIII. Hughes to Clay, November 28, 1827.
3) Ibid., VIII., Hughes to Clay, October 15, 1827.

stimulate its growth. The reason why only 10 or 12 Dutch vessels per year could be "coaxed" into the American trade, as Verstolk expressed it, was because no greater number was available. It was because they lacked vessels of their own and because Americans had vessels to spare, that the Dutch were compelled to import American goods in American vessels, and for this same reason they also made use of American vessels to carry their own merchandise to the United States.

But instead of frankly and openly acknowledging this fact, the Dutch government actually assumed the rôle of the aggrieved party, when it pointed to our high tariff as the reason why so few Dutch vessels traded at our ports. This explanation—or rather accusation—might have had some weight, if Dutch goods had been subject to a higher tariff when imported in Dutch vessels than when imported in American vessels. But, as the Dutch government well knew, the act of 1824 had established perfect equality in this respect. If it were at all true, therefore,that Dutch vessels were frightened off by reason of our high tariff, we should at least expect to find the same cause operating with like effect upon American vessels. For, why should Dutch shippers have given any preference to American vessels, when it cost them no more to import their goods in Dutch vessels? Yet, it was an actual fact that nine out of every ten vessels carrying Dutch goods to the United States were American. Clearly enough, the small percentage of Dutch vessels employed for this purpose was due to some other factor than our tariff.

It should be noted also that the tariff question and the question of discriminating duties were not one and the same. Strictly speaking, each was a separate issue, but the Dutch government apparently confused the two.

Although there was no connection between our tariff policy and the small number of Dutch ships arriving at our ports, it cannot be denied that the profits of Dutch merchants and manufacturers were greatly lessened by reason of the high duties imposed upon certain kinds of merchandise coming from the Netherlands. Ever since 1816 complaints had been heard against our policy of high protection, and these complaints multiplied after the passage of the tariff act of

May 19, 1828.[1] This act increased the duty on gin from 42 to 57 cents per gallon, which was equivalent to an *ad valorem* duty of over 100%. A duty of nine cents per square yard was levied on sail-cloth or Holland duck, and this was to be raised a half cent per year until it reached twelve and a half cents. There was also a progressive increase of $5.00 per ton on flax, until the duty should reach the exceedingly high figure of $60.00 per ton. The duties on white-lead, linseed oil, etc., were proportionately high.

A month or two after the passage of this act, the Chamber of Commerce of Schiedam and the gin manufacturers of Delfshaven petitioned for government aid in securing a reduction of the duty on gin. The Amsterdam Chamber of Commerce believed it would be feasible to apply for a reduction of the duties in general, and pointed to the fact that the tariff had met with "strenuous opposition in the United States itself." These petitions were forwarded to Huygens,[2] who made them the basis of a series of complaints against our tariff policy in general, and particularly against the prohibitive duty on gin.[3] But his protests remained unheeded, and as a result the discontent in Holland increased from year to year. In one of his notes Huygens sought to impress upon the American government "that the situation of the Diplomatic and Commercial relations between the United States and the Netherlands has taken a *delicate and critical* turn, and deserves a particular attention for avoiding a rupture of the naturally amicable relations" between them. Their quarrels, he said, were "like those arising between two lovers, with the difference that they do not offer such easy means of reconciliation."[4]

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In addition to our dispute with the Netherlands in regard to discriminating duties and to their complaints against our tariff—neither of which were of such a nature as to cause

1) *U. S. Statutes at Large*, IV., 271.

2) R. A., *Buitenl. Zaken, Amerik. Legatie*, Registre 9-I. Verstolk to Huygens, August 7, 1828, with the inclosures mentioned in the text.

3) *Notes from the Legation of the Netherlands*, I., Huygens to Clay, November 28, 1829; to Van Buren, May 15, December 11 and 14, 1829, and May 22, 1830.

4) Ibid., I., May 15, 1829.

the official relations to become *delicate* and *critical*—there were just at this time two other matters which did not help to improve the good understanding between the two countries.

One of these arose out of the award made by the King of the Netherlands in the controversy between England and the United States regarding the Northeastern boundary. This controversy, which had been outstanding since 1783, had been referred to King William for arbitration in 1828. Hughes notes that "many of the first personages of this kingdom" had shown their satisfaction "at this proclaimed proof of the confidence reposed by the United States in the wisdom, judgment and honour of their monarch." [1] And the King himself, in notifying Hughes of his acceptance, had remarked, "I hope you will believe that I am sensible of the extreme delicacy of the points and feelings in such a controversy, and alarmed by the almost impossibility, let the decision of the arbiter be what it may, of satisfying both parties, ... But I shall be guided by the best lights that may be obtained, and I hope I may add, by a spirit of the purest and most inflexible impartiality, as to the two parties who have done me the honour to select me as umpire in their differences; . . . . an honour which, you may assure the President, I know how to feel and to appreciate." [2]

At the same time the Jackson administration decided to recall Hughes, and to replace him by an Envoy Extraordinary and Minister Plenipotentiary. This in itself was a matter of gratification to the government of the Netherlands, which had maintained a representative of ministerial rank at Washington since 1825, whereas the United States had appointed no minister to the Netherlands since the recall of Eustis in 1818. But, to use the words of Secretary Van Buren, "there existed a high necessity in the judgment of the President that the local feelings and interests involved in the controversy between the United States and Great Britain . . . . should be consulted in making the selection. Mr. Preble, therefore, who belongs to the State of Maine, the state of this Union most deeply interested in the decision of that important concern, was selected for this mission." [3]

[1] *Despatches, Netherlands,* VIII. Hughes to Clay, Jan. 8, 1829.
[2] Ibid., VIII. Hughes to Clay, Jan. 21.
[3] *Instructions, Europe,* XII., 200-201. Van Buren to Hughes, May 29, 1829.

The appointment of Preble was unwise for the very reason that he was "a neighbor to the debateable land." "It is regarded," says Hughes, "as winking at cunning and trick; in a word, like sending a *party* to plead his *own cause.*" [1] And Huygens (not to be confused with Hughes) wrote to Van Buren that the nomination of a minister "for discussing and treating of the boundary question was far from satisfying the Netherlands." [2] Under the circumstances Preble was occasionally made to feel that he was *persona non grata,* and it must have been an embarrassing moment for him when, upon his presentation at court, the Prince of Orange asked him point-blank whether he was not largely interested as a proprietor in the lands in controversy.[3]

The award of the king was made known on January 10, 1831, and two days later Preble sent in a protest against the award, on the ground that the king had acted contrary to his instructions.[4] This protest seems to have been interpreted as an attack on the king's integrity, and therefore, naturally enough, aroused "angry feelings," which were not improved when the United States Senate officially rejected the award. Thus the position of arbiter, which the king had assumed with evident pleasure and pride, became in the end a source of bitterness to him and a cause of estrangement between the two countries. As late as December, 1831, Baron Verstolk, who is characterized as being "in general the most frigid and reserved of all diplomats," grew warm in complaining of the spirit of enmity against Holland displayed in American newspapers.[5]

Furthermore, the political situation in the Netherlands was another factor which contributed to the disfavor with which Americans and things American were looked upon. In August, 1830, a revolutionary movement broke out in the Southern provinces, which ultimately resulted in the indepence of Belgium. The attitude of the Dutch people toward American institutions and political ideals was to some extent

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1) *Despatches, Netherlands,* VIII. Hughes to Van Buren, Sept. 25, 1829.

2) *Notes from the Legation of the Netherlands,* I. Huygens to Van Buren, May 15, 1829.

3) *Despatches, Netherlands,* IX., Preble to Van Buren, Jan. 30, 1830.

4) Ibid., IX., enclosed in his despatch of January 16, 1831.

5) Ibid., IX. Davezac to Van Buren, December 30, 1831.

determined by the stand which they took on this domestic question. This is brought out in one of the despatches of Preble,[1] written about a month after the revolution in Belgium had begun. "Our form of government and social conditions are the theme of perpetual eulogium from the Liberals. They are the living example and model to which the opposition are forever appealing." He then contrasts the attitude of the Liberals with that of the Conservative party, and quotes "a very intelligent Dutchman of the old school gentry" as saying, "You have no conception how they *hate* your government and people; they regard you as the school of liberalism and the source of all the revolutionary movements in Europe; for, in your happy condition, you are continually preaching in silence, but with powerful effect, doctrines and principles the most odious and alarming to them."

We may also note here, as an indication of the manner in which our government and people were regarded in Holland, what Van Hogendorp confided to his journal on April 26, 1832.[2]

"Our representative in the United States [Huygens] has returned home on leave, and has paid me a visit. He seemed very prejudiced against the Americans and presented several objections against them.

"His first objection was, that the national debt would be paid off in a year, from which he predicted great disasters.

"His second objection was, that, in consequence, taxes would be reduced by at least a half.

"His third objection was, that the population was increasing alarmingly, and that as a result the Western States would in time obtain a majority in the House of Representatives.

"His fourth objection was, that so many Europeans came to settle there, and that during the previous year the number was 60,000.

His fifth objection was, that there was an extraordinary circulation of money, so that everything could be undertaken on credit, and that Americans would trade all other nations to death.

"His sixth objection was, that the government encour-

1) Ibid., IX., Preble to Van Buren, September 14, 1830 (confidential).

2) *Brieven en Gedenkschriften van G. K. Van Hogendorp*, VII., 257.

aged this [commercial] activity by levying no export duties, and by granting eighteen months' credit on import duties.

"I was careful, indeed, not to express any doubts, but when he was gone I asked myself whether the man had lost his common sense. Upon reflection, I concluded that he desires to play to the gallery, in order to gain favor and to further his own interests. He possibly knows from old that it is fashionable in Holland, and especially at this capital, to scoff at Americans. More than once he could not hide his surprise that I did not scoff with him.

"It is a characteristic trait of these times that Americans are criticized in this fashion. Their prosperity is a source of lively criticism by the government of every country in Europe."

CHAPTER IX.

The Conclusion of a Commercial Treaty.

So long as the question submitted to the arbitration of King William remained undecided, the American government considered it inexpedient to open up a discussion on the general interests of the two countries.[1] Shortly after the king's decision was announced Preble returned home.

When his successor, Auguste Davezac of Louisiana, made known our desire for a modification of the treaty of 1782, he was surprised to find that the Dutch government showed a willingness to begin negotiations at once. The king even expressed the belief that the negotiations would this time be more successful, for, since the failure of the former attempt, he said, circumstances had greatly changed. Davezac, much pleased to find the Dutch government in so favorable a mood, requested that full powers should immediately be sent him to conclude a treaty.[2]

On May 18, 1832, Edward Livingston, then acting as Secretary of State, sent Davezac a project of a treaty, consisting of ten articles.[3] The President's objects, Livingston explained, were threefold. First, "To introduce stipulations, which, by means of a perfect reciprocity of advantages, would secure to us an intercourse not only with the European, but the American and Asiatic possessions of that country." Second, "To give an extension to the principles on which the rights of the neutrals are secured." Third, "To consecrate by treaty stipulations the duties which civilized nations owe to each other in time of war."

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1) *Instructions, Europe,* XIII., 67, 80. Van Buren to Preble, Nov. 2, 1829; Jan. 4, 1830.

2) *Despatches, Netherlands,* X. Davezac to Livingston, December 30, 1831.

3) *Instructions, Europe,* XIII., 293-300.

The terms which the President proposed in order to accomplish these objects were in brief as follows. Neither party was to grant any particular favor to other nations in respect to commerce and navigation, "which shall not immediately become common to the other party." Citizens of either country might freely reside in the other country, and were to be entitled to the same rights and privileges in regard to commerce and navigation as those which native citizens enjoyed. This provision was intended to establish equality in regard to lighthouses, salvage, pilotage, quarantine and harbor dues. The only exception was that each country reserved the coasting trade to its own citizens. Furthermore,—and this was the most important departure from the existing practice,—any merchandise, irrespective of its origin, which could be imported into either country in its own vessels, could also be imported in vessels of the other country, subject to the same duties as to tonnage and cargo; and any merchandise which could be exported or reëxported from either country in its own vessels, could also be exported in vessels of the other country.

With reference to the question of neutral rights, the American government proposed that article eleven of the former treaty, which declared "that free vessels shall secure the effects with which they shall be loaded," or, in other words, that *free ships make free goods,* should apply *only* to nations which recognized the principle; but if either of the two parties should be at war with a third, and the other party should be neutral, "the flag of the nentral shall cover the property of enemies whose government acknowledged this principle, and no others." When, as in the above stipulation, the neutral flag of either party should protect the property of the enemies of the other party, "the *neutral* property found on board of vessels of such enemies shall be held and considered as enemy's property, and as such shall be liable to detention and confiscation;" but "if the flag of the neutral *does not* protect enemies' property, in that case the goods of the *neutral,* embarked in such enemies' ships, shall be free."

In the instructions accompanying this project, Livingston made it clear that unless a perfect reciprocity of commercial advantages could be secured, we had no great desire to depart from the existing arrangement. "Now there can never

be a perfect reciprocity," he said, "which excludes the most important dominions of one of the parties from its operation." Should the Dutch government repeat the same argument which had been advanced during the previous negotiations, that in extending the principle of reciprocity to their colonies they were giving us an advantage for which they received no equivalent, Davezac was to point to our long coastline, extending from the Sabine to the St. Croix, to our numerous harbors, and to the great variety of our productions. Since the Netherlands is now reduced to a population of a little over two million, "there would be no reciprocity whatever in a treaty that should give to such a state a perfect equality of trade with another of six times the population, twenty times the extent, and whose productions are infinitely varied—more especially when that small state is essentially navigating and commercial, has ships and capital to avail itself of all the advantages which an equal trade with our extensive, populous and productive country will afford, while, if the colonies were excluded, we should have nothing in return but the limited advantages which its contracted territory and small amount of population has to offer us. The extension of these reciprocal advantages to the trade with the colonies would in some measure balance this inequality."

With reference to the status of Louisiana he was told to say, "Had the conditions of the cession been that Louisiana should remain in its colonial state, then it is acknowledged that the reciprocity would have been preserved, and the trade to Louisiana would be a good equivalent for the trade to the Dutch colonies. But Louisiana is there—whether governed as a colony or a component part of our territory is immaterial . . . . Of what importance to a foreign nation is it how a country is governed, provided no interruption is offered to the commercial rights secured by treaty?" Besides, in 1817 we had only Louisiana, now we could throw Florida into the scale also, and both had greatly increased in value since 1817.

What the United States desired, Livingston repeated, was to secure *unrestricted trade* with the Dutch colonies. This would be a great advantage to the Dutch themselves, "in the wars which, as a continental power, they must expect to be engaged in, while we would probably be neutral, when,

with our ships, we should keep up intercourse between the mother country and its colonies . . . . To this they may answer that they can secure the advantage by *temporary suspension* of their restrictive laws, of which we would be glad to avail ourselves. A conclusive reply, however, is that the British doctrine, that neutrals shall not in time of war be permitted to carry on a trade to which they were not entitled in time of peace, will probably, in all such cases, be enforced by that and other nations whose interest it may be to assert the principle, and that therefore it will be necessary to secure it by treaty." Should the Dutch government be entirely averse to making this arrangement, Davezac was to propose this modification: "We shall not participate in the *direct* trade between the European and the colonial possessions of Holland, leaving everything else as hereinbefore proposed."

Meanwhile the political situation of the Netherlands was not favorable for the opening of treaty negotiations. The Dutch government was just then at odds with the five great powers of Europe, whose terms regarding the separation of Belgium the king stubbornly refused to accept. In October, 1832, England and France, the two powers principally concerned, began to put pressure to bear by declaring a blockade of Dutch ports.

Davezac saw in this situation a possibility of securing for Americans the privilege of carrying on the direct trade between the Dutch colonies and the mother country. A prominent merchant of Amsterdam had written him, he reports in December of this year,[1] that representations had been made to the government, to show the necessity of admitting Americans to the colonies. "This is but the beginning of an expression of public feeling which will soon burst out loudly from Rotterdam, Den Helder and every other seaport in the Netherlands. It has already had an effect on the Cabinet," and would soon, he believed, "surmount the repugnance" of the minister of finance, "a man saturated by all the ideas of the 17th century." In later despatches he noted that our own vessels were in demand for the trade to Java and Sumatra, and he believed the demand would continue so long as the *cause* continued.[2]

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[1] *Despatches, Netherlands,* X., Davezac to Livingston, December 7, 1832 (confidential).

[2] Ibid., X., February 26 and March 22, 1833.

On April 2, 1833, about a month before the king yielded to the demands of the Powers, Davezac at length submitted the project of the treaty which had been forwarded to him the year before.[1] His note was referred for careful consideration and report to the Departments of Foreign Affairs, Finance and Colonies, and on the 16th of April these Departments brought out an adverse report.[2] The proposal to extend reciprocity to the colonial trade was considered utterly impracticable. At present, it was stated, all foreign flags are subject to higher duties than the Dutch; to grant any special privilege to Americans, who are already "our formidable competitors in the Indies," will invariably result in the ruin of our own trade with our colonies.

It was also considered inadvisable to accept our proposals regarding neutral rights. If England and the United States, they argue, should again become involved in war, the flag of the Netherlands will not protect English property, for England does not recognize the principle of *free ships, free goods.* But suppose England should accept this principle, the Dutch would thereby be placed in an even more difficult position. For, in that case, Dutch vessels could not be employed in English service, and, worse still, Dutch goods found on board of English vessels would be subject to confiscation. They suspect the United States of having sinister motives, in submitting its proposals at a time when the relations between the Netherlands and England were seriously strained. These proposals, instead of evincing a desire to regulate the political and commercial relations on a favorable footing, "have no other intention than that of utilizing the critical situation in which the Netherlands was so unexpectedly placed, for the purpose of entirely destroying its trade and its colonial system," of increasing the difficulties between Great Britain and Holland, and of preventing the restoration of friendship with Great Britain as long as possible. Their joint advice, therefore, was that "from a political as well as from a commercial point of view," the proposals of the American government should be rejected.

On May 1 Verstolk informed Davezac that Holland could not grant the advantages which the United States sought to acquire in the colonial trade, for these advantages were "at

1) R. A., *Buitenl. Zaken, Amer. Legatie,* Registre 10.
2) Ibid., Registre 10.

variance with the whole colonial system of the Netherlands." Furthermore, perfect reciprocity, he said, "presupposes a certain similarity between the tariffs of the two countries, which does not exist, since that of the United States considerably exceeds that of the Netherlands." [1] Davezac seems to have considered this reply as final, and the negotiations were abruptly broken off.

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Nearly twenty years had now elapsed since trade relations had been resumed, yet neither country was satisfied with the policy of trade and navigation which the other was pursuing. Up to this time an agreement had been reached on only one of the questions of a commercial nature which had called for settlement in 1815, and even this agreement was of a tentative character and of uncertain duration.

The United States maintained, as we have seen, that the reciprocity established in 1818, though confined in its operation to the direct trade, was as perfect on our part as we could make it, but that the Dutch government had violated the spirit and principle of this agreement by its tariff act of 1822. This act had now been in operation more than a decade and during all these years goods imported in American vessels had been subject to an additional import duty of 10%. Yet the American government showed no signs of an intention to retaliate, and since 1827 had even ceased to complain of this policy.

Two and a half years after the failure of the second attempt at treaty renewal,—which brings us to the close of 1835,—circumstances occasioned a revival of this old dispute. These circumstances are clearly set forth in the following passage from President Jackson's seventh annual message. "Coinciding with the opinion of my predecessor that Holland is not, under the regulations of her present system, entitled to have her vessels and cargoes received into the United States on the footing of American vessels and cargoes as regards duties of tonnage and impost, a respect for his reference of it to the Legislature has alone prevented me

[1] Ibid., Registre 10.

from acting on the subject. I should still have waited without comment for the action of Congress, but recently a claim has been made by Belgian subjects for admission into our ports for their vessels and cargoes on the same footing as American, with the allegation that we could not dispute that our vessels received in their ports the identical treatment shown to them in the ports of Holland, upon whose vessels no discrimination is made in the ports of the United States. Giving the same privileges, the Belgians expected the same benefits,—benefits that were enjoyed, in fact, when Belgium and Holland were united under one government. Satisfied with the justice of their pretension to be placed on the same footing with Holland, I could not, nevertheless, without disregard to the principle of our laws, admit their claim to be treated as Americans, and at the same time a respect for Congress, to whom the subject has long since been referred, has prevented me from producing a just equality by taking from the vessels of Holland privileges conditionally granted by acts of Congress, although the condition upon which the grant was made has, in my judgment, failed since 1822. I recommend, therefore, a review of the act of 1824, and such a modification of it as will produce an equality on such terms as Congress shall think best comports with the settled policy and the obligations of justice to two friendly powers."

Two weeks earlier, Secretary John Forsyth had informed the Dutch chargé, Martini, that the President was personally in favor of raising the duties on Dutch vessels, and that he would advise Congress to adopt this course.[1] Martini, in the hope that the President might be induced not to refer to the matter "in his usual sharp tone," held an interview with Van Buren, who gave him no encouragement. He also talked the matter over with Mr. Dickens, chief clerk of the State Department, who suggested that the best way out of the difficulty would be a treaty agreement. A few days before the message appeared, Forsyth gave him the comforting assurance that the President's language would be very moderate. Congress, Forsyth thought, would probably show no haste in taking action, and meanwhile the Dutch might see fit to establish perfect reciprocity, by returning the addi-

[1] R. A., *Buitenl. Zaken, Am. Legatie,* Registre 12, Litt. B, No. 26. Martini to Verstolk, November 25, 1835.

tional import duty of 10% which Americans had been paying for the last thirteen years.[1]

In Holland the President's message was viewed with alarm, and Verstolk early in January called for advice from various other Departments of the government. The head of the Department of National Industry reported on January 21.[2] According to all the latest indications, he said, the United States would soon lay a discriminating duty on Dutch vessels, unless Holland should grant to Americans a drawback of 10% of the import duties. An increase of the duties in the United States would result in great injury to the Dutch, who had of late invested considerable capital in American trade. The number of American ships engaged in the direct trade was on the decrease, while the number of Dutch ships was on the increase, so that competition was more nearly equal than in former years. In 1834 no less than 17 Dutch vessels had arrived from the United States; in 1835 there were 29. During the same years the number of Dutch vessels bound for the United States was respectively 12 and 22, while a considerable precentage of American vessels had sailed from Holland in ballast.[3]

It also deserved consideration, he said, that by the American tariff act of March, 1833, all duties in excess of 20% *ad valorem* would be gradually reduced, so that after 1842 the maximum duty would be 20%. This maximum duty was still comparatively high, but nevertheless the reduction was "a substantial improvement," and would lead to a further increase in the Dutch trade with the United States. His advice, therefore, was, that Dutch vessels should be made to pay the additional 10% import duty now exacted from Americans, or that Americans should be granted the 10% drawback now enjoyed by the Dutch. The latter course, he thought, would be preferable, but to prevent difficulties with other powers, the United States would

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1) Ibid., Martini to Verstolk, December 4, 1835.

2) Ibid., Rapport van den Administrateur van Nationale Nijverheid aan den Min. van Buitenl. Zaken. Signed; Netscher.

3) 19 out of 74 in 1834, 10 out of 57 in 1835. Davezac also notes that "while Dutch vessels rapidly find freight in *our* ports," American vessels in Holland had difficulty in finding a return cargo. This was due to the protection given by Holland to her own navigation. In Jan. 1837 he writes, "the advantage given to Dutch navigation..... has worked a practical injury to American trade."

have to make some concession, by lowering the duties on certain goods of Dutch origin.

This report was then sent to the Ministers of Finance and Colonies, who gave it their entire approbation.[1] The Minister of finance suggested that it might be best to embody this arrangement in treaty form.

The Secretary of foreign affairs made this report the basis of his instructions to Martini on May 24, 1836.[2] Martini was authorized to make known that the Dutch government was inclined to grant a restitution of 10% of the duties on goods imported in American vessels, on condition that the United States should grant a permanent reduction of duties, in favor of the Netherlands, on gin, cheese, linseed-oil, glassware, wheat and oats. Unless the United States should make a concession of this kind, he said, Holland's treaty obligations toward other powers would be compromised.

About nine months later, in February, 1837, Congress at length undertook to carry out the recommendation which President Jackson had made in his message of December, 1835. On February 13 the Senate began a consideration of a bill, which had been passed by the House, for placing Belgian vessels and cargoes on the same footing as those of Holland, in ports of the United States. Buchanan, as chairman of the Committee on Foreign Relations, explained[3] that Holland had thus far refused to live up to the terms of the Act of 1824, by granting a drawback to its own vessels. "We might," he said, "according to the principle of this act have done the same, as a countervailing measure, in favor of our own navigation; but as, notwithstanding the duty of 10%, our own navigation continued *to enjoy almost the whole of the trade* between Holland and the United States," it had not been deemed worth while to deprive the Dutch of the privileges they were enjoying. The only object of the present bill was to place Belgian vessels on an equality with the Dutch. But a provision was inserted authorizing the President to suspend the act of 1824 against either Belgian or Dutch vessels, when in his opinion circumstances should render it expedient.

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1) R. A., *Buitenl. Zaken, Am. Legatie,* Registre 12, Litt. B, No. 26. Feb. 6 and 11.

2) Ibid., Registre 10. Cypher despatch.

3) *Congressional Debates,* XIII., Part I, 806.

Clay demanded to know[1] "whether information had been obtained as to the present proportion between Dutch and American navigation employed in the trade with Holland, as in 1835 it appeared that the Dutch were rather gaining on us" Buchanan replied that he would supply the Senate with this information, which he did on the following day. The figures he submitted showed that in 1834 the American tonnage engaged in the trade with Holland was 17,000, in 1835 it had decreased to 15,000, and in 1836 to 8,500. During the same years the Dutch tonnage employed in this trade had increased from 1,651 to 5,401. Buchanan did not profess to know whether the rapid increase in Dutch tonnage was due to their discriminating duty on American vessels, but if so, he thought the President should promptly suspend the act of 1824 against Dutch vessels and cargoes. Clay expressed the same opinion. When we see a regular increase in Dutch tonnage and a regular decrease in American, there is no doubt, he said, "that both results proceeded from a common cause." And this cause, he thought, was the discrimination against American vessels in Holland.[2] The amendment introduced by Buchanan met with the approval of the House, and in this form the bill was passed on the second of March.[3]

For our purpose the significance of Jackson's message of 1835 and of the act of March, 1837, which grew out of it, lie herein that they led to a revival of the treaty discussions, which this time were to be crowned with success. While the bill was still pending Martini had held an interview with Forsyth, and had seized the occasion to make known the contents of his instructions of May, 1836. Forsyth replied that the United States would be pleased to see the old dispute about discriminating duties removed by a convention, but that the administration could not, without an authorization from Congress, grant a reduction of the duties on Dutch products. Another interview in March, after the passage of the act referred to above, led to the same result and convinced Martini that a concession such as his instructions

1) Ibid., February 13, 1837.
2) Ibid., February 15, 1837.
3) *U. S. Statutes at Large,* V., 152.

called for could not be obtained from the American government.[1]

At a conference held in June, Martini asked whether Forsyth could suggest no other basis of agreement. Forsyth replied by referring to the original proposal which the United States had submitted in 1817. He proposed, namely, that Dutch vessels, whether engaged in the direct or indirect trade, and irrespective of the origin of their cargoes, should be admitted to American ports on the same footing as our own.

Martini's despatch of June 25, setting forth the nature of the proposal,[2] was referred to the Minister of finance for consideration,—which seems to have been a customary mode of procedure under the government of King William—and in due time became the basis of a new set of instructions. On December 15, 1837, Verstolk informed Martini that Forsyth's proposal had been rejected, for if the United States made so liberal a concession in favor of Dutch ships, they would undoubtedly expect the Dutch government to make a similar concession in favor of American ships. And as Dutch ships would seldom have occasion to bring goods to the United States from a *foreign market*, the government was not prepared to adopt the principle of perfect reciprocity. The king was, however, willing to conclude a treaty, if the American government would guarantee that goods imported into American ports in Dutch vessels, should be entitled to a reduction of 10% of the import duties, irrespective of whether these goods were carried directly from Holland or from some foreign port. In addition to this he proposed an agreement by which vessels of either country, when engaged in the direct trade, should be subject to no higher tonnage duty than was imposed on national vessels, and that this same principal should also apply to vessels engaged in the *indirect* trade, when arriving in *ballast*. This agreement was to hold good only for the European dominions of the Netherlands, not for the Dutch colonies.[3]

Early in February, 1838, Martini submitted these proposals to Forsyth, and a few days later he was informed that

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1) R. A., *Buitenl. Zaken, Am. Legatie,* Registre 12, Litt. B, No. 26. Martini to Verstolk, February 20 and March 8, 1837.
2) Ibid., Registre 12, Litt. B, No. 26.
3) Ibid., Registre 12, Litt. B, No. 26.

the President had accepted them.[1] On April 21 Verstolk forwarded the concept of a treaty, consisting of six articles.[2] This concept reached Martini early in June, and on the 6th of that month he informed Forsyth that he had received full powers to enter into negotiations for a treaty, on the bases proposed in February last.[3] Formal negotiations were at once begun, and, after much wrangling over the exact wording of certain articles, the treaty was ready for signature on January 19, 1839. Ratifications were exchanged on May 23.

Article one of this treaty of January 19, 1839,[4] established perfect reciprocity as regards import duties on goods, of whatever origin, carried directly from a port of the United States to a port in the Netherlands, and *vice versa*. The remainder of this article indicated that Holland had at length accepted the viewpoint of the United States in the long-standing dispute regarding drawbacks. It was expressly declared: "The bounties, drawbacks, or other favours of this nature, which may be granted in the States of either of the contracting parties, on goods imported or exported in national vessels, shall also in like manner be granted on goods directly exported or imported in vessels of the other country . . . . it being understood that, in the latter as in the preceding case, the goods shall have been loaded in the ports from which such vessels have been cleared." By article two each country agreed to place the vessels of the other on an equality with its own in regard to "duties of tonnage, harbour dues, light-houses, salvage, pilotage, quarantine, or port charges of any kind or denomination." The next three articles guaranteed protection and assistance of the consuls of either country in the performance of their official duties; defined what was meant by "National" vessels; and provided for mutual aid to each other's vessels in time of shipwreck or distress. Article six stipulated that the treaty was to be in force during the next ten years, after which it was to terminate automatically twelve months after either party had notified the other of its intention to discontinue it.

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1) Ibid, Martini to Verstolk, February 11, 1838.
2) Ibid.
3) *Notes from the Legation of the Netherlands*, II.
4) *U. S. Statutes at Large*, VIII., 524-527.

CHAPTER X.

CONCLUSION.

Our relations with Holland during the years 1803 to 1840 may be divided into two periods. The first period lies between the middle of 1803, when the warfare between England and France was resumed, and the close of 1813, when the French domination of Holland ceased.

The nature of the relations between the United States and Holland during these years was determined by the nature of the relations between Holland and France. Diplomatic relations were suspended entirely, not because of a rupture of the traditional friendship, but because the foreign policy of Holland was dictated by France. Trade relations were determined by the fact that Holland, as the unwilling ally of Napoleon, was compelled to adopt the Continental System.

The year 1803 saw the inception of the Continental System in Holland; the year 1813 saw its final overthrow. Until the close of 1807 the operation of this System tended to increase rather than to diminish the volume of our trade with Holland. These were years of unusual prosperity to the American trader, in spite of the fact that he was subject to many petty inconveniences, and to occasional losses resulting from the detention of his vessel.

With the renewal of hostilities, in 1803, the maritime trade of Holland temporarily ceased. Her ships were either unemployed, or were engaged in internal commerce, or in the more hazardous practice of smuggling. From this state of things Yankee captains and sailors profited. Our neutral status entitled us to import into Holland the products of the United States, of the Dutch colonies, and of all other countries. British goods alone were barred. As a result, the carrying trade of Holland was largely in the hands of Americans.

Our commercial prosperity was also due in part to our participation in the contraband trade, and to the general atmosphere of corruption which characterized the period. Fraudulent importations of enemy goods and fraudulent exportations of Dutch goods to the enemy were matters of daily occurrence. The falsification of certificates of origin, and of the ship's papers in general, became a fine art which flourished liberally, and Dutch, French and British officials lent their assistance in furthering the practice. The Dutch exclusion laws proved to be entirely inadequate to deal with the problem of fraudulent trade under a neutral flag. The legislation of 1803-'04 made no provision at all for penalizing a neutral who perpetrated fraud. The more stringent law of May, 1805, for the first time gave a comprehensive definition of the term British goods, and laid down four distinct penalties for their introduction by neutrals —penalties ranging from the payment of a fine of 1,000 florins to the confiscation of the vessel and its entire cargo. But there is no evidence that a single American vessel or American-owned cargo were thus confiscated, nor that any of the fines were ever exacted from an American captain. The law was enforced only during a few months; it became a dead letter the moment Louis was made king. Even the Berlin decree was not enforced against neutrals until nine months after its promulgation.

After September, 1807, when the Continental System came to be enforced more vigorously, also against neutrals, our commercial relations with Holland took a decided change for the worse. By Louis' orders of August 28 and September 16, 1807, the Berlin decree was made operative in Holland. The offense of introducing British goods and of touching at an English port was made punishable by the confiscation of the vessel and of the entire cargo. This regulation remained a part of the commercial code of Holland until the end of the period.

Some of the provisions of the Berlin decree were strengthened by the Milan decree, which was put into effect in Holland by Louis' order of January 23, 1808, proclaiming an embargo on all shipping. At the same time the embargo in the United States prevented our vessels from leaving American ports. It is not surprising, therefore, to find that the volume of our trade with Holland fell off tremendously

during 1808. But the surprising fact is that, in spite of trade restrictions, American vessels were still admitted to Dutch ports, and continued to supply Dutch markets with considerable quantities of foreign and British goods. A secret order of February 11, permitted the importation of salt. This was repealed on May 19, but again made effective on August 1. Throughout the year, by special order of Louis, it was made possible for Americans, who were then the only neutrals, to import tea. Many an American vessel also took chances on importing other cargoes besides salt and tea, and almost invariably found a welcome. There is no instance on record of the confiscation of an American vessel in Holland in 1808, though many of them were clearly violating the law of the land. Moreover, vast quantities of forbidden goods were smuggled into Holland, and to this practice American vessels also lent themselves. Though our trade with Holland was diminished in volume, it was not entirely at a standstill.

The legislation during the first seven months of 1809 was somewhat more favorable to the American trader, but trade was still hazardous and the market uncertain. The decree of March 31 permitted the importation of salt and tea, and of such American products as tobacco, whale-oil, hides, and potash. The decree of June 30, added six articles to the list of imports, but this concession was revoked on July 29, and the decree of March 31, again became operative. Throughout the year, however, it was still possible, and profitable, for Americans to import goods into Holland, as well as to carry out a variety of goods from Holland. But again, as in 1808, and as a result of the bewildering rapidity with which decree followed decree, many a cargo consisted in part of forbidden goods, the introduction of which should have subjected the American captain to the confiscation of his vessel. Yet no such confiscations occurred, and the forbidden cargoes—which should also have been confiscated—were merely stored in royal warehouses with the intention of returning them to the owners at the return of peace. Moreover, this year offered unusual opportunities for smuggling, and thousands upon thousands of pounds of British and colonial produce, carried over by American vessels, ultimately found their way into Holland, either along maritime routes or across the land frontier, and were there sold by

speculators at fabulous prices. In spite of numerous restrictions, trade was even more flourishing in 1809 than in 1808, though the total volume was still far less than in any of the prosperous years preceding 1808.

The year 1810 put an end to the uncertainty as to whether Dutch markets would still be available for the American trader. Louis' decree of February 1 excluded "every American vessel whatsoever," and this decree was enforced to the letter. The treaty of March 16 compelled Holland to deliver to France all merchandise which had been brought in by Americans since January 1, 1809, and the annexation of Holland to France, in July, put an end to our trade with Holland during the remainder of the Napoleonic period. The Stars and Stripes, emblem of our commercial prosperity, still crossed the seas in every direction, but were no longer to be seen in Dutch ports.

The losses sustained by American merchants during the second part of this period, i.e. from September, 1807, to the end of 1813, were negative rather than positive in character. They resulted from the closure of Dutch ports and from the uncertain state of the Dutch markets. During these years many an American mercantile firm, which had been wont to maintain business connections with Holland, permanently deflected its trade to other markets. The only positive losses sustained resulted from the execution of the treaty of March, 1810, and from the confiscation of American vessels seized by French privateers. But these losses were remarkably small in comparison with the losses sustained by Americans in other European countries.

The second period of our relations with Holland begins with the effort of the Dutch government to re-open diplomatic intercourse, in December, 1813, and ends with the conclusion of the commercial treaty of 1839. On September 24, 1814, the American government recognized the independence of the Netherlands, by officially receiving Changuion as minister to the United States, and in July, 1815, Eustis assumed his functions as minister to the Netherlands, a post which had been vacant since 1801. Between that date and the end of 1839 no important questions of a strictly diplomatic nature arose. The official relations during these years were on the whole friendly, except for the ill-feeling in 1830-'31, aroused by our rejection of King William's award

in the Maine boundary controversy, and by the opposition in Holland to our high tariff of 1828.

Except for a few months in 1830-'31, while the Belgians were engaged in establishing their independence, the commercial intercourse between the two countries during this second period was not disturbed by war. Our relations with Holland during these peaceful years were determined, in part, by the nature of the events during the first period. The decade of warfare which preceded left its stamp on succeeding years. The spoliation claims which were unsuccessfully prosecuted against Holland from 1815 to 1820, were a direct aftermath of the Napoleonic era. Moreover, the merchant marine of Holland had suffered tremendous losses as a result of the Napoleonic System, and during the greater part of the second period the Dutch were not in a position to compete with Americans in the direct trade between the two countries. Not only were the bulk of American goods carried over to Holland in American ships, but the Dutch were compelled to make use of American bottoms in exporting their own productions to the United States. The balance of trade, therefore, during the greater part of this period was overwhelmingly in our favor. This state of things naturally aroused the jealousy of the Dutch, and their commercial jealousy was one of the factors which retarded the adoption of a commercial treaty.

The governments of both countries during this second period were in favor of trade reciprocity. King William, whose personal characteristics and mental habits largely determined the legislative output and national policy of Holland, had decreed on May 17, 1815, that import and tonnage duties on goods and vessels from the United States should be the same as for vessels engaged in the European trade. After January 1, 1817, our vessels were to pay the same tonnage duties as Dutch vessels. The United States had meanwhile done nothing to reciprocate these favors. But in 1817 an attempt was made to regulate commercial relations by treaty, so as to make them conform with our reciprocity act of March, 1815. This attempt failed, partly because the weakness of the Dutch merchant marine made it impolitic for Holland to extend the principle of reciprocity, so as to make it apply to import and tonnage duties on vessels en-

gaged in indirect trade, partly because of the antiquated colonial policy of the Dutch government.

In spite of the failure of the treaty negotiations, the Dutch regulations of 1815 and 1817 remained in force, and by act of April 20, 1818, which was renewed on January 7, 1824, Congress reciprocated the favors which the Dutch government had extended to our commerce. By these acts, which remained in force until 1839, we abolished our discriminating tonnage duties on all Dutch vessels visiting our ports, and our discriminating import duties on Dutch vessels coming directly from the Netherlands. Holland, however, by its law of August 26, 1822, violated the spirit of our reciprocity agreement by granting a drawback of 10% on goods imported in Dutch vessels. This regulation occasioned a dispute which lasted until 1839. By that time the merchant marine of Holland had grown to such an extent that the Dutch were in a position to compete on more equal terms with Americans in the direct trade. As a result the Dutch government was ready to extend the principle of reciprocity in accordance with the wishes of the American government. This was accomplished by the treaty of 1839, which established a reciprocity of import duties on goods carried directly from country to country, irrespective of whether such goods were of native origin. In regard to tonnage duties this treaty was less favorable to the Dutch than our legislation of 1818 and 1824, which was due to the belief that Dutch vessels would seldom have occasion to carry a cargo from a foreign port to an American port. Moreover, it failed to make any provision for the trade of Americans with the Dutch colonies. This matter, therefore, as well as the extension of the principles of perfect reciprocity to tonnage and import duties, remained to be determined by future regulations.

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3. *Despatches from American Ministers to the Netherlands,* vols. V. to XII., years 1815 to 1840.
4. *Notes from the Secretary of State to Foreign Legations,* vols. II. to V., years 1815 to 1840.
5. *Notes to the Legation of the Netherlands,* vol. I.
6. *Notes from the Legation of the Netherlands,* vols. I and II.

   After January, 1833, the *Instructions* to our ministers at The Hague are separately bound. After June, 1834, this plan was followed for the *Notes* from the Secretary of State to the Dutch Legation. For the Notes *from* the Dutch Legation and for the Despatches of our ministers at The Hague this plan was followed from the beginning. Only a small part of the diplomatic correspondence for these years has been published in the *American State Papers, Foreign Relations.*
7. *Despatches, France,* vol. XI. The few despatches from this volume which served my purpose were loaned to me by Dr. Melvin.
8. *Consular Despatches, Amsterdam,* vols. II. and III.
9. *Consular Letters, Rotterdam,* vol. I.
10. *Consular Letters, Antwerp,* vols. I. and II.

    Of particular value are the reports of consul-general Bourne at Amsterdam, 1803—1813. They furnish much information on the effect of the Dutch exclusion laws on American trade. Except for the usual trade statistics, the consular letters after 1813 yielded little of importance.

II. In the Manuscript Division, Library of Congress:—

1. *The Sylvanus Bourne Papers.* Contain duplicates of Bourne's official communications to the Dutch government; also much additional material—letters to mer-

chants, captains, other consuls, etc.....in all more than 4,000 documents, of which about 500 are in Bourne's hand.

2. *The William Taylor Papers.* Wm. Taylor and Sons of Baltimore, carried on an extensive trade with Holland prior to 1814. The reports of their Amsterdam agent on the movement of vessels, state of the market, market prices, etc., constitute an excellent supplement to the Bourne Papers. Neither of these collections has been catalogued.
3. *Logbook of the Merchant Ship "Lexington",* Timothy Gardner, Master; New York to Bremen and Amsterdam, 1807-'08.

III. In the British Archives:—

1. *British Foreign Office,* $\frac{11}{10}$, $\frac{11}{17}$. Documents relating to the re-opening of diplomatic relations. Collected by Dr. Lingelbach.
2. *Privy Council Registers,* vols. 67-70. Loaned by Dr. Melvin.

IV. In the Rijks-Archief at The Hague:—

The Dutch archives contain unusually rich and extensive collections for the years 1803—1813. My classification of sources follows the arrangement adopted in the hand-books and catalogues provided for this purpose. I have indicated only those volumes which have been of use in this study.

1. *R. A., Buitenlandsche Zaken*:
   a. *Amerika,* vols. 358 and 359; Vol. 358, containing the consular correspondence, yielded almost nothing; in 359 are to be found a number of Bourne's communications with the Dutch government.
   b. *Frankrijk,* vols. 216 and 218. A portion of the diplomatic correspondence between France and Holland has been published by Colenbrander. These volumes contain hitherto unpublished material on the efforts of the Directory to secure Napoleon's consent for the exportation of cheese to the United States.
2. *R. A., Staatsbewind*:

   In this group are the minutes of the proceedings of the Directory, the Legislative Body and the Zeeraad or Marine Council. The latter body had charge of petitions, etc., on matters relating to trade and navigation. Its de-

cisions were then, as a rule, discussed by the Directory or Legislative Body, or by both.

a. *Minuteele Notulen van het Staatsbewind,* vols. 84, 90, 100, 103, 105, 109, 133.

b. *Minuteele Notulen van het Wetgevend Lichaam der Bataafsche Republiek,* vols. 13, 14, 15.

c. *Registers van de Besluiten der Zeeraad,* vols, 1, 2, and 3.

3. *R. A., Staats Secretarie*:

Under this head are grouped the collections relating to the reign of king Louis. I have used only the royal decisions and decrees, and the volumes containing the *secret* royal decrees and other documents requiring secrecy; which together comprise some 300 volumes. The secret decrees constitute one of the most valuable sources for a study of Louis' commercial policy, and afford abundant proof that Napoleon's incessant criticisms of his brother were not without foundation.

a. *Origineele Koninklijke Decreten en Besluiten,* vols. 89, 90, 100, 115, 118, 131, 132, 157.

b. *Secrete Koninklijke Decreten en Stukken,* vols. 359, 360.

4. *R. A., Collectie Goldberg,* vols. 190 and 208.

This is one of the many private collections in which the Dutch archives for this period are particularly rich. Goldberg held office under the Directory and under Louis. He evidently possessed a hobby for trade statistics, and the long lists of imports and exports which he patiently worked out constitute the only valuable source of information I have been able to obtain on this phase of the subject. It is a curious fact that the consular reports prior to 1815 do not afford the slightest clue to the volume of our carrying trade with Holland. Because of the evident care which Goldberg exercised to obtain accurate statistics, I have had no hesitation in accepting his figures, even though they occasionally differ from those of Pitkin.

5. *R. A., Buitenlandsche Zaken, Amerikaansche Legatie*:

At the time when I used the diplomatic and consular correspondence for the years 1814 to 1829, this material had just been transferred from the Foreign Office to the the Rijks-Archief, and was as yet uncatalogued. The documents in the Foreign Office for the years 1829 to 1840, to which I had access, also showed no evidence of classification. Therefore the classification of Dutch

sources for 1814—1840, which is here given, is largely arbitrary.

a. Registre 1. Despatches of Changuion, Ten Cate and and Quabeck, 1815 to 1820.
b. Registre 2. Notes to the Secr. of State, 1816 to 1831.
c. Registre 3. This packet contains the correspondence relating to spoliation claims, and to the treaty negotiations of 1817.
d. Registre 4. } Consular Correspondence, 1815 to 1820.
e. Registre 5. }
f. Registre 6. Despatches, 1825 to 1827.
g. Registre 7. Despatches, 1828 to 1836.
h. Registre 9. Numbers A to E contain the *Notes* of Huygens, 1825 to 1830; in F to L are found instructions to Huygens and miscellaneous material.
i. Registre 10. Despatches of Martini.
j. Registre 11. Notes and despatches of Martini.
k. Registre 12. This packet, labelled Retroacta, Litt. B, no. 26, contains most of the material bearing on the treaty negotiations, 1836—1839.

B. PRINTED SOURCES.

1. Colenbrander, Dr. H. T., *Gedenkstukken der Algemeene Geschiedenis van Nederland,* 1795-1840, (Den Haag, Mart. Nyhoff, 1908-1912.)

Deel IV., eerste stuk, pp. LXXVIII + 344; tweede stuk, pp. 345-787.

Deel V., eerste stuk, pp. LXI+388; tweede stuk, pp. 389-847.

Deel VI., eerste stuk, pp. XL. +754; tweede stuk, pp. LVI. + 757-1586; derde stuk, pp. CCXXXVII + 1591-2017.

This is a collection of sources relating to Dutch history from 1795 tot 1840, the publication of which is financed by the Dutch government. These three volumes, comprising over 4,000 pages, contain a mass of hitherto inaccessible material, collected from public and private archives in the Netherlands and other countries. Volume IV., deals with the period of the Directory, 1801—1806; vol. V. covers the reign of Louis; vol. VI., in three parts, comprises material on the incorporation of Holland, and the overthrow of French rule in 1813.

2. *Correspondance de Napoleon Ier.,* vols. VIII. to XX. An indispensible source for a study of Napoleon's dealings with Holland. I did not consult the Correspondance after July, 1810, for Colenbrander, in vol. VI., has re-pub-

lished from this collection, and also from the collections of Lecestre and Brotonne, all of Napoleon's writings relating to Holland. Mary Loyd's *New Letters of Napoleon I.* contains an occasional letter not found in any of the above collections.

3. Rocquain, Felix, *Napoleon Ier et le Rois Louis,* d' après les documents conservés aux archives nationales, pp. CXXVIII+337. (Paris, 1875). Rocquain has here collected all the correspondence between Napoleon and Louis. Napoleon's letters may also be found in the *Correspondence,* but Louis' letters are not accessible elsewhere in printed form.
4. Duboscq, André, *Louis Bonaparte en Hollande,* d' après ses lettres, 1806-1810. pp. 401. (Paris, 1911). Here are to be found a number of Louis' communications with Dutch officials. A few of these have not been reprinted by Colenbrander.
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15. *American State Papers, Foreign Relations,* vols. III., V., VI. Volume III. contains a part of Armstrong's correspondence with Champagny in 1810. In vol. V. is to be found the correspondence relating to spoliation claims, while vol. VI. contains a part of the material relating to discriminating duties.
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